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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1198th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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Tenth to fourteenth periodic reports of Pakistan

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-15866 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Tenth to fourteenth periodic reports of Pakistan (CERD/C/299/Add.6)

1. At the invitation of the Chairman, Mr. Akram, Mr. Khan, Ms. Janjua and Mr. Qazi (Pakistan) took seats at the Committee table.

2. Mr. AKRAM (Pakistan) said that an effort had been made to adhere to the Committee's guidelines in the preparation of the report and to take into account the Committee's previous observations. Pakistan's deep and consistent commitment to the elimination of all forms of racial discrimination was fully reflected in its policies. It had participated actively in the drafting of the Convention and had been among the first to ratify it. It had played a leading role in the opposition to, and ultimate elimination of, apartheid and, together with Nigeria, had initiated the International Convention on the Suppression and Punishment of the Crime of Apartheid, to which it was also a party. It believed in continuous and active efforts to eliminate new forms of racial discrimination and xenophobia.

3. Referring to article 1, paragraph 1, of the Convention, he stated that there was no distinction based on race, colour, descent, or national or ethnic origin in Pakistan. As a result of waves of migration into the Indus valley over several thousands of years, the racial and ethnic composition of the people of Pakistan was varied and complex, making it extremely difficult to divide the population into racial or ethnic categories. Although the Committee's requests for data on the ethnic characteristics of the population had been noted, no question on ethnic origin had been asked in Pakistan's decennial census. In addition to reasons given in the Committee's guidelines for States' reluctance to put that question, he observed that few, if any, of the people of Pakistan would know what the question meant and how to answer it. In order to accommodate the Committee's concerns, however, data on linguistic composition, drawn from population projections, had been provided as the closest approximation - in the case of Pakistan - to the requirement for information on the ethnic background of the population. Although it had been noted from previous discussions with the Committee that the question of religious minorities was not considered to be strictly within the purview of the Convention, information had been provided on religious minorities since they were the only "minorities" in Pakistan.

4. Pakistan was a functioning democracy and four general elections had been held since 1988. Despite the challenges posed by underdevelopment, political differences and external threats, democratic structures had survived and grown in strength, and the fundamental constitutionally-guaranteed human rights had remained unfettered. Citizens could air their grievances and seek redress through a vigorously free press and an open and accessible judicial system. Even in troubled times, Pakistan's open society guarded against any institutional imposition of oppression, including racial discrimination. His delegation was willing to answer any questions and provide to the Committee as soon as possible any information that was not immediately available.

5. Mr. GARVALOV (Country Rapporteur) welcomed the resumption of the dialogue with Pakistan after a lapse of 10 years and hoped that the State party would submit its next periodic report in accordance with article 9, paragraph 1, of the Convention. In preparing his statement on the fourteenth periodic report, he had based his comments primarily on Pakistan's ninth and fourteenth reports and had also drawn on relevant United Nations sources, such as reports of the Commission on Human Rights, the Working Group on Enforced or Involuntary Disappearances, the United Nations High Commissioner for Refugees, the Special Rapporteur of the Commission on Human Rights on the question of religious intolerance, the Special Rapporteur on torture and the ILO Committee of Experts on the Application of Conventions and Recommendations. He had also consulted relevant materials in the reports of the United States State Department and of certain NGOs, such as Human Rights Watch, Amnesty International and the Lawyers Committee for Human Rights.

6. He commended Pakistan's constructive approach in its fourteenth report, which supplemented information given in the previous report, answered questions raised by Committee members in 1987, gave an impressive account of measures taken in respect of minorities and reflected an effort to adhere to the Committee's guidelines. Pakistan's active cooperation with the two Special Rapporteurs of the Commission on Human Rights, inviting them to visit the country in 1995 and 1996, was particularly commendable.

7. The fourteenth report provided valuable information and further clarification on Pakistan's legal framework, population, languages, press censorship, minorities, various new institutional arrangements and Afghan refugees. He welcomed the State party's commitment to the elimination of racial discrimination, its leading role in the elimination of apartheid, its concerted efforts to combat new forms of racial discrimination and xenophobia, its dedication to upholding and implementing the provisions of the Convention, its effort to translate the provisions of the Convention into its legal framework and the specific constitutional guarantees referred to in paragraph 7 of the report. The completion of the process of democratization, referred to in paragraph 8, was a very important achievement and he hoped that the process would be nurtured further. Another achievement had been the full restoration of the Constitution following the lifting of martial law. He noted from paragraph 13 that Islamic and common law complemented each other.

8. Regarding the provision of data on ethnic origin, he recalled the Committee's concluding observations on the ninth periodic report in paragraph 789 of the Committee's report to the General Assembly (A/42/18) and the reply by the representative of Pakistan thereto (para. 796) to the effect that minorities denoted religious minorities, that ethnic origin was a purely subjective criterion and that there was no single linguistic majority. While he understood Pakistan's official views and positions, which appeared to be unchanged, additional questions arose from the fourteenth report. The report referred variously to "minorities", "minority communities", "minority groups", "communities", "minorities and other sections of the population" and "regional groups". Did they all denote only religious minorities and, if so, why the great variety? Were the different languages spoken in Pakistan, referred to in paragraph 18, not a sign of ethnic differences, and were they taught in schools? There had been no response to the Committee's request for clarification as to whether language should not be construed as a compound of

the criteria for defining a minority. Paragraph 22 of the fourteenth report did say, however, that minorities constituted 3.32 per cent of the total population and consisted of Christians, Hindus, Ahmadis, Parsis, Buddhists and Sikhs, which prompted the question why those groups were officially considered minorities while the linguistic groups, which far exceeded them in number, were not.

9. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the United Nations General Assembly, recognized that there were at least four categories of minorities. Moreover, Pakistan's constitutional provision that any section of citizens having a distinct language, script or culture had the right to preserve and promote the same and, subject to law, establish institutions for that purpose could be taken to constitute recognition of the existence of linguistic and cultural minorities as well as religious minorities, and indeed he considered that in providing such a guarantee, the Constitution showed great vision and scope.

10. The existence of "tribal areas" in Pakistan, as reported in the ninth periodic report (CERD/C/149/Add.12), corroborated claims that there were ethnic or tribal differences; tribal areas could not be described as religious minorities. One reference work (Europa Publications regional survey on the Far East and Australasia, 1996) made that point, referring to the Punjabi as the principal ethnic group, other major groups being Sindhi, Pashtun, Urdu and Balochi, while another source mentioned the "Mohajir nation" as an ethnic group. He asked who were the Kalash people referred to in paragraph 29 of the fourteenth report.

11. Referring to the impressive list of new institutions, forums and schemes to help solve the problems of minorities, mentioned in paragraphs 23-41 of the report, he requested more information about the work and effectiveness of those bodies, particularly the Minorities Affairs Division. One of the Division's tasks being to protect minorities against discrimination, he asked what kind of discrimination was meant. Had the National Commission for Minorities already considered any of the laws, executive instructions, orders or procedural practices referred to in paragraph 25 (a) of the report, which laws or practices were concerned and what recommendations had been made? In particular, had the National Commission considered the present system of separate electorates for minorities? What exactly was the new system of representation referred to in paragraph 58 of the report (under art. 14 (c) of the Constitution)? And in what ways had it enhanced the political right of minorities to participate in elections? Had the National Commission considered the violence that had erupted between government forces and tribes in the Malakand Division of the North West Frontier Province over the separate electorate system? Had it looked into any grievances by members of minority communities and what were the grievances? The Supreme Court had ruled, in response to a constitutional petition submitted on behalf of over 20 million bonded labourers and 1.5 million nomads denied the right to vote, that redress could only be sought on an individual basis through the normal legal process; he asked whether a solution had been found. With reference to paragraph 32 of the report, he wished to know what the recommendations of the seminar on the uplift of minorities and the electoral system had been and whether they concerned the system of separate electorates. The information provided about

welfare schemes for minorities in paragraphs 34-41 was important, but would have been better understood if the amounts quoted in rupees had been expressed in comparative terms, for instance as against annual average per capita income.

12. The large numbers of Afghan refugees placed a very heavy burden on Pakistan, and the Government's efforts to provide them with shelter and the hospitality with which they had been received were appreciated. Much information had been provided on the implementation of articles 2, 3, 5 and 7 of the Convention but, regrettably, little in connection with articles 4 and 6. With regard to article 2, Pakistan's anti-discrimination position and policies were welcomed, but he observed that the definition of racial discrimination in article 1, paragraph 1, of the Convention was broader than the terms used in the Pakistan Constitution, which prohibited discrimination based on religion, race, caste or sex. Since article 25 of the Constitution provided that all citizens were equal before the law and were entitled to equal protection of the law, he asked what were the legal rights of non-citizens, such as the Afghan refugees.

13. With reference to paragraph 48 of the report, he said that, according to Amnesty International, violent conflicts had broken out between different ethnic, religious and political groups, particularly in Karachi. Information on whether the National Assembly had approved several bills, including one on the abolition of the death penalty and of flogging for minors, would be welcome, as would details of the work of a commission of inquiry that had been set up to examine laws that discriminated against women and to suggest amendments and other remedial measures.

14. The reference in paragraph 49 to the fact that the State promoted, with special care, the educational and economic interests of backward classes or areas was very welcome. He asked whether there was any specific legislation or other instruments which gave effect to that guarantee.

15. From paragraph 51, it was clear that the Government was trying very hard to support the social sector by increasing spending on it by 33 per cent and launching a Social Action Programme which, inter alia, covered minority affairs. Was the programme fully operational? Had the 30,400 new schools been built? Had the 9,800 existing schools been renovated? And were the 300 unfinished rural health facilities in Sind and the new 200 rural health facilities in Baluchistan finished or under construction?

16. There was only one paragraph in the report dealing with Pakistan's implementation of article 4 of the Convention, and it did not provide enough information on relevant legislation and judicial and normative acts. It seemed, however, that Pakistan did not challenge the mandatory nature of that article. He asked whether the Penal Code had been amended since 1973, when efforts had been made to bring its provisions into line with those of the Convention. Information was needed on how the Penal Code punished acts of racial discrimination, whether there were cases before courts of law claiming racial discrimination and, if so, how the courts had dealt with them. He asked how article 4 (b) of the Convention was reflected in Pakistan's domestic legislation and whether Pakistan had prohibited any racist organizations.

17. The information on implementation of article 5 of the Convention (paras. 56-58 of the report) was both appropriate and useful. Articles 10, 14, 18 and 38 of the Constitution were reproduced and showed how Pakistan was trying to protect the civil, political and economic, social and cultural rights of its citizens. However, there should be more clarification of the "far-reaching measures" referred to in paragraph 57.

18. In 1996, Amnesty International had reported that 5,000 cases of human rights violations committed in 1994 had been investigated. In 1995, several departmental and judicial inquiries into human rights violations had been conducted. He asked for information on the findings and any follow-up and asked in how many of the reported cases racial discrimination had been claimed. The Committee would also welcome information on whether the Constitution allowed the formation and functioning of political parties based on ethnic and/or religious affiliation.

19. He requested clarification of what was meant by the term "anti-national activity" referred to in paragraph 58 and the reference to "any person who for the time being is an enemy alien". With regard to the same paragraph, several reports, including that of Mr. Nigel Rodley, Special Rapporteur on torture (E/CN.4/1997/7/Add.2), had alleged extrajudicial killings in Sind, armed clashes with excessive use of force by government troops against the Mohajir Qaumi Movement (MQM) factions, the killing of Punjabi labourers in Karachi on 2 November 1995, and an increase in ethnic and sectarian tension. They also alleged that members of the Shi'a and Sunni Muslim organizations had attacked rival groups, that there had been sectarian clashes in Punjab and that the credibility of the police had been seriously undermined as a result of their involvement in those and other similar violent incidents. In his report, the Special Rapporteur on the question of religious intolerance (E/CN.4/1996/95/Add.1) had quoted non-official sources which alleged that the Ahmadi, Christian, Hindu and Zikri minorities had suffered attacks against their places of worship initiated by Muslim extremists, and maintained that State laws in Pakistan on religious minorities and on tolerance and non-discrimination based on religion or belief were likely to foster intolerance. The delegation should shed light on those allegations and a further allegation in the report of the Special Rapporteur on torture (E/CN.4/1997/7/Add.2) that the MQM (Altaf) faction had consistently claimed that its activists were innocent, unarmed victims of ethnic violence.

20. The report was very short on information about implementation of article 6 of the Convention, which meant that the Committee was unable to judge whether it was being implemented effectively. The reference in paragraph 59 to the fact that the law did not discriminate "between the citizens of Pakistan" raised the question whether non-citizens could be discriminated against. He requested information on the effectiveness of the Pakistani judicial system and on its several different court systems and their jurisdiction. Information would also be welcome on the Sharia Court and the decisions it had made in 1990 to introduce into Pakistan's Penal Code the concepts of Qisas ("an eye for an eye") and Diyat ("blood money"). He wondered what justification there could be for the Hadood ordinances and whether under them evidence was given different weight depending on the religion, ethnic background and sex of the witness in question. He also asked about the jurisdiction of the special courts established under the Suppression of

Terrorist Activities Act and whether they had been abolished. On the positive side, he welcomed the abolition of the Punishment of Whipping Act, 1996.

21. The information on article 7 of the Convention was extremely useful; the Government should be commended for recognizing the key role of education. A Ministry of Human Rights had been established and had already launched an awareness programme to boost knowledge of human and legal rights. It would be interesting to hear more about the programme and the terms of reference of the Ministry itself. The Pakistan authorities should also be commended for their plans to include human rights in school curricula. The Government should take heed of the Committee's General Recommendation V, which focused on article 7 of the Convention.

22. He welcomed the contents of paragraph 65 of the report and paid tribute to the Government for its policy of democratizing culture, decentralizing activities to give recognition to the regional heritage of languages and literature, revitalizing cultural institutions and promoting the equal participation of women in all sectors.

23. Lastly, he expressed appreciation for the work of Mr. Shahi, a member of the Committee and a Pakistan national, in relation to the World Conference on Human Rights and the contribution he had made to the Vienna Declaration and Programme of Action.

24. Mr. WOLFRUM welcomed the renewed dialogue with Pakistan. In his opinion, however, the report was rather disappointing in that there was very little information on the practical implementation of the Convention or on cases, judgements or administrative actions concerning the question of racial discrimination. His second criticism was that Pakistan's definition of minorities was unclear and failed to recognize language as an indicator of ethnic identity.

25. With regard to legislation on representation of minorities in the legislature, mentioned in paragraph 58 of the report, and amendments to the system, further information was needed on the former system and on what had replaced it. He would also welcome clarification of why the word "would" had been used in reference to minorities' right to vote for their representatives. He also invited the delegation to explain what was meant by "hardships" facing minority communities, as mentioned in paragraph 32. The report was also short on details regarding Baluchistan and the Federally Administered Tribal Areas, particularly who lived in such areas and why they were federally administered.

26. During consideration of the ninth periodic report of Pakistan, the Committee had expressed dismay at the poor implementation of article 4. Given that fact, it was even more unsatisfactory that there should be only one paragraph in the current report regarding implementation of that article.

27. There appeared to be only one reference in the entire report (in para. 18) to the North West Frontier Province (NWFP). He would like further information on the legal situation in that area, and comments on a report that the Constitution was not fully applied in the Province and that it had a special judicial system and laws. Had the inhabitants of the Province participated in elections to the Pakistan Parliament?

28. The information in paragraph 59 of the report on the court system needed to be supplemented in order to enable the Committee to judge whether article 6 of the Convention was being fully implemented.

29. The huge influx of immigrants from India into Pakistan over the years had apparently led to a change in Pakistan's demographic composition. He asked whether that was true, whether Indian immigrants had moved mostly to urban areas and what their social and economic situation was. Also, with regard to refugees from Bangladesh, details of the extent to which they had been able to integrate into Pakistan's economic and social life would be welcome.

30. Mr. de GOUTTES asked in relation to paragraphs 15-17 of the report when it would be possible for the Committee to have information on the exact composition of the population and if the Government had considered including questions on the ethnic origins of the population in any subsequent census, given the importance of such information.

31. Turning to paragraph 55 of the report, he reminded the delegation that following consideration of Pakistan's ninth report (CERD/C/149/Add.12), the Committee, in its concluding observations, had expressed concern that the word "disharmony" used in the Penal Code was considered by the authorities to be broad enough to cover every conceivable act of racial incitement. He wondered whether any additional legislation had been enacted since then to ensure that all legislative instruments were in full conformity with article 4 of the Convention.

32. Concerning paragraph 59 of the report, he noted that no examples had been given of cases in which the provisions of the Penal Code punishing acts of racism had been applied. He hoped that in the next report Pakistan could at least provide statistics on complaints lodged, judgements delivered and redress ordered for the victims of ethnic or racial discrimination.

33. He would like to know whether the Islamic courts could still impose corporal punishment under Islamic law and, if so, what form it took. Could the Islamic courts intervene in cases involving acts of ethnic and racial discrimination?

34. He regretted that the report did not contain enough concrete information on the actual implementation of article 5. It would appear that discrimination existed against certain minorities, foreigners and immigrants in the areas of economic and social rights, particularly with regard to the right to work, housing, health care and social services.

35. Ms. ZOU Deci said that although religious differences were important, they did not constitute a criterion for defining minorities. In China, comparatively few members of the largest ethnic group, the Han, were Buddhists, whereas certain Chinese minorities, such as the Tibetans and the Mongols, were largely Buddhist. In Pakistan, the main religion was Islam, yet some Muslims in Pakistan were victims of discrimination. That suggested that it was not necessarily appropriate to define minorities on the basis of religion.

36. Paragraph 22 of Pakistan's fourteenth report spoke above all of religious minorities, and paragraphs 23-25 mentioned various institutions which had been established to resolve the problems faced by minorities. She would like to know whether those institutions dealt with religious minorities. Also, were the Kalash people, to whom reference was made in paragraph 29, also a religious minority? More generally, did Pakistan use other criteria for defining minorities apart from religion?

37. Paragraph 51 of the report cited efforts being made by the Government to ensure the health and welfare of its people, but provided no information on how that related specifically to minorities. Paragraph 60 stated that the literacy rate in Pakistan was still only 35 per cent, but that was for the country as a whole. What was the figure for minorities?

38. Article 4 of the Convention was very important, but the report only contained one paragraph relating to it. She inquired which provisions of the Penal Code ensured compliance with article 4 and how legislation was actually implemented. Were there organizations in Pakistan which engaged in discrimination in everyday life? And had acts of discrimination been committed? If so, how did the Government respond?

39. To sum up, the report of Pakistan did not give a full picture of the situation of minorities in that country. She therefore hoped that more information would be provided in the next report.

40. Mr. YUTZIS said that, like other members of the Committee, he questioned the statements contained in paragraphs 47 and 48 of the report, and in particular the assertion that Pakistan had never engaged in any act or practice of racial discrimination against persons, groups of persons or institutions (para. 48 (a)).

41. Referring to paragraph 29 on the setting-up of a National Committee on the Kalash People, he asked what the actual situation of that people was and what had led the Government of Pakistan to establish such a body.

42. It was not clear to him why the National Commission for Minorities needed to ensure the full and effective participation and association of minorities with their religious and cultural festivals and celebrations (para. 25 (c)). Did such minorities have transport problems? Did they not have the resources to hold such festivals?

43. Concerning paragraph 33, he would like to know what were the specific problems which minorities confronted. The paragraph spoke of a special meeting on matters relating to minorities, and he inquired what its results had been. It also noted that the meeting had made recommendations regarding the reactivation of the district minority committees, to which reference had been made in paragraph 28; he wondered whether those committees had not been working well.

44. What measures had emerged from the Federal Advisory Council for Minority Affairs (para. 26)? What results had been produced by the National Committee on the Kalash People (para. 29)? What decisions had been taken following the monthly meetings with members of the National Assembly (para. 30)? Was there any information to gauge the effectiveness of the bodies set up at the local level (para. 31)?

45. He had received information on an ethnic and linguistic group, the Mohajirs, who lived in Sind province. The members of that group maintained that they had been the victims of discrimination. For instance, they had cited legislation making Sindhi the official language. As there were many Mohajirs in that province, what did people do who did not speak Sindhi? Also according to the information he had received, there was a quota system for jobs and education which favoured the Sindhis and discriminated against the Mohajirs. He hoped that the delegation of Pakistan could comment on those allegations or that clarification could be provided at the next session. It was such allegations that made it hard for him to accept the assertion in paragraph 47 that there was no discrimination in Pakistan.

46. Mr. DIACONU said that the report of Pakistan would seem to suggest that that country had the most advanced legislation in southern Asia for combating racial discrimination and protecting minorities. But the Committee needed to know how that legislation was actually implemented. If, as stated in paragraph 22 of the report, minorities only made up 3.32 per cent of the total population, that notion seemed too limited, and the Committee would need more information.

47. Pakistan's legislation and Constitution prohibited discrimination on the basis of caste. He inquired what that term was taken to mean in Pakistan. Did it have ethnic or national connotations, or was it merely an economic concept?

48. Regarding article 4 of the Convention, apparently Pakistan's legislation did not prohibit organizations which promoted or incited racial discrimination. Could the delegation of Pakistan clarify that point? Pakistan was unique in that it had both a Minister for Human Rights and a Minister for Minority Affairs. What were the areas of responsibility of those two ministers?

49. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that the Convention did not use the word "minority" and required a reporting State not to define that term, but to protect against less favourable treatment groups of persons distinguished, inter alia, by descent or by national or ethnic origin. The Committee would need to focus on the characteristics of a group of persons distinguished by ethnic origin. It was easy to say that the Balochis filled that description, on account of their language and customs and the territory on which they lived. But it was also possible to say that a group of persons was distinguished by ethnic origin without having any of the three attributes mentioned above. Some experts on ethnic relations regarded the Mohajirs as being such a case. It was common to look to the past to find out about origins, yet ethnic groups were being created all the time. Perhaps the Mohajirs, whose origins could be traced back to 1948, were the world's youngest ethnic group. As he saw it, it would be wrong to reject out of hand the view that the Mohajirs were a group distinguished by ethnic origin. They certainly had a political dimension, but the Committee had frequently noted a mixture of ethnic and political factors when distinguishing groups.

50. Another group worth mentioning in that context was known as the Shidis, descendants of Africans brought to the subcontinent as slaves. Present in Pakistan, where they were distinguished by a darker complexion, the Shidis maintained that they had experienced less favourable treatment on account of

their colour. It was to be hoped that the next report of Pakistan would provide information on the situation of both the Mohajirs and the Shidis.

51. Mr. van BOVEN said that although it was not legally obliged to do so, the Government of Pakistan had invited thematic rapporteurs of the Commission on Human Rights to visit and report on the situation in the country. That was a sign of constructive cooperation.

52. Long-standing discussion of the relationship between racial and religious issues had resulted in the adoption of separate international instruments on racial discrimination and religious intolerance. Nonetheless, it was not possible to draw neat separations between religious practice and racial origin, as the two were often closely linked. It was therefore not surprising that Pakistan considered it relevant to draw attention to religious minorities in its report.

53. In connection with paragraph 33 of the report, he inquired whether the prominent members of minority communities who had met with the Senator in charge of human rights belonged to the minorities mentioned in paragraph 22. Referring specifically to the situation of the Ahmadis, who were victims of widespread discrimination, including restricted access to employment and promotion, he pointed out that the Special Rapporteur on religious intolerance had concluded, in paragraph 82 of his report, that the law applicable to Ahmadis in Pakistan was questionable.

54. Although the Committee doubted the claims, made in paragraphs 48 and 54 of the report, that there had never been racial discrimination in Pakistan, the Government had certainly taken effective measures to prevent acts of discrimination. The Committee looked forward to receiving information on the role of the courts in the subsequent report. He asked whether the right of persons to seek redress for infringements of their rights, as stated in paragraph 59, included compensation for injury suffered.

55. In conclusion, he expressed the hope that Pakistan would soon ratify the amendment to article 8, paragraph 6, which had been adopted by the General Assembly, as it would serve to strengthen the Committee's administrative and financial base. He also urged the Government to comply with the General Assembly recommendation that State parties should give wide publicity to reports submitted to treaty bodies, and also the concluding observations made by those bodies.

56. Mr. FERRERO COSTA said that the report made general statements on principles but did not provide enough information for the Committee to assess Pakistan's fulfilment of the requirements of the Convention. He hoped that future reports would give more specific replies to the issues raised.

57. Claims of the non-existence of racial discrimination were unacceptable. While recognizing the tremendous difficulties faced by States, it was implausible that a multi-ethnic country with 137 million inhabitants, such as Pakistan, would be free from racial discrimination.

58. He joined his colleagues in calling for the full implementation of article 4 of the Convention. Paragraph 55 of the report should have contained information to the effect that legislation in Pakistan prohibited organizations whose doctrines led to the incitement of racial hatred or

discrimination. There was also need for further explanation of how Pakistan provided effective protection and remedies against violations of human rights and fundamental freedoms, as required under article 6.

59. The establishment of the Ministry of Human Rights was highly commendable and set an important example for other States parties. He wished to know more about the scope and functions of that Ministry, as well as the content of the various programmes aimed at increasing public awareness.

60. He expressed concern at the admission, in paragraph 60, of a 35 per cent literacy rate in Pakistan, and asked what literacy programmes had been devised. How did the Government deal with the diversity of languages in the promotion of its literacy campaigns, given the fact that only 7.6 per cent of the population spoke the national language, Urdu? The question of languages also comprised the rights of citizens in court proceedings. He wondered what provisions, in terms of language, were made in the courts for the majority of the population who did not speak Urdu.

61. The ideals expressed in paragraph 65 were welcome, and he asked for further information on how they were put into practice.

62. Mr. ABOUL-NASR invited the delegation to clarify the meaning of "Mohajir", as it was his understanding that the term did not designate a particular race or ethnic origin. He also requested clarification of the overlap between the concept of race and religion; the Committee should focus on the areas covered by the Convention.

63. The CHAIRMAN, speaking in his capacity as a member of the Committee, explained that his reference to people of darker skin colour was to a group of descendants of former African slaves, and not to Mohajirs.

64. Mr. AHMADU thanked the delegation for its report. He agreed that Pakistan had reached an advanced stage in legislation on racial discrimination, compared with other States in the region and indeed with other Islamic States. He asked for further information on the Ahmadis and the status of Urdu. In conclusion, he observed that the courts of Pakistan were famous for their landmark judgements.

65. Mr. AKRAM (Pakistan) expressed gratitude for the profound interest expressed by the Committee in the situation in his country; he would be happy to make comprehensive responses to the various questions at the following meeting.

The meeting rose at 5.55 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1199th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-15883 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Pakistan (CERD/299/Add.6) (continued)

1. At the invitation of the Chairman, the members of the delegation of Pakistan resumed their seats at the Committee table.

2. Mrs. SADIQ ALI asked the Pakistani delegation whether the advent of a new Government had been accompanied by any possibility of reconciliation between the majority of the population of Pakistan and the country's largest minority, the Mohajirs, Muslims who had emigrated to Pakistan after the partition of India. The latter had called for the appointment of a United Nations rapporteur to investigate the systematic and persistent discrimination to which they were being subjected. Did the Pakistani Government plan to take measures with regard to the situation of persecuted minorities, in particular the Ahmadis, Christians and Hindus, in accordance with article 7 of the Convention? She noted that young girls, most of them from families belonging to the Christian and Kalash communities, had reportedly been forced to convert to Islam. Furthermore, the Ahmadis, concerning whose situation the Sub-Commission on Prevention of Discrimination and Protection of Minorities had expressed "grave concern" in August 1985, had been subjected to religious persecution for some 20 years. Did the Government plan to take steps to put an end to the practice of sentencing to death men and women accused of adultery? What was the situation with regard to the legislation on blasphemy, whose repeal had been proposed by the National Commission for Minorities?

3. She requested further information on the sensitive question of the repatriation of the Biharis, an Urdu-speaking people currently living in refugee camps in Bangladesh. She also requested that, in its next report, the Pakistani delegation should furnish social indicators on the education, training, health and housing of minorities, in accordance with the provisions of article 5 of the Convention. With regard to article 5 (a), she asked whether the neediest citizens were entitled to legal aid. She expressed concern at the failure to respect the rights set forth in article 5 (b) - because of the punishments called for under Islamic law, (c) and (d) (vii) and (viii), and at the Government's plan to include the bearer's religion on national identity cards. Might that not give rise to a hierarchical classification of citizens?

4. The CHAIRMAN informed Mrs. Sadiq Ali that at the previous meeting, when she had not been present, the members of the Committee had had a brief exchange of views concerning the implementation of article 1, paragraph 1, of the Convention in the case of Pakistan. The fact that certain groups characterized by their ethnic origin were sometimes also characterized by other factors, such as religion, posed a problem. He was, however, confident that Mr. Garvalov, the Country Rapporteur, would include in the Committee's concluding observations only matters which fell strictly within the scope of the Convention.

5. Mr. ABOUL-NASR, speaking on a point of order, said he had observed, at the previous meeting, that the Committee should deal with religious matters only if they were associated with racial discrimination. He regretted that Mrs. Sadiq Ali had gone so far as to criticize his religion, Islam, and the very nature of all Islamic law. He feared that the comments made would merely fuel the campaign against Islam that was currently being waged throughout the world.

6. Mr. AKRAM (Pakistan) said that his Government had decided to provide information on religious minorities even though the Convention did not specifically apply to them, since minorities in Pakistan were officially defined according to their religion. He would attempt to reply to relevant questions by members of the Committee and, in that regard, mentioned the report in which Mr. Amor, the Special Rapporteur on the question of religious intolerance, had analysed the situation of religious minorities in Pakistan and measures taken by the Government (E/CN.4/1997/91).

7. From the standpoint of health care and education, the situation of the minorities, who were concentrated in urban areas, was generally considered to be somewhat better than that of the rest of the population. With a few exceptions, their per capita income was also a little higher. However, he would furnish more detailed statistics on the matter. All Pakistanis had equal access to educational, health and other facilities. The rights of minorities were protected by certain provisions of the Constitution and by specific legislation.

8. In reply to a question regarding paragraph 25 (c) of the report (CERD/C/299/Add.6), he said that the National Commission for Minorities had, inter alia, authorized workers to take a day's leave in order to observe a religious holiday when it fell during the working week. As to the recommendations and implementation of the measures suggested by the various bodies mentioned in paragraphs 26-33 of the report, he intended to obtain more information from the Pakistani authorities and would make it available to members.

9. With regard to the application of Islamic law and punishment, he said that the standard of evidence required under that law was very high and that, to date, there had been no case of Islamic punishment in Pakistan. As to the situation of the Ahmadis, he explained that successive Governments had attempted, through legislative and administrative measures, to put an end to the violence to which that community, for theological reasons, was subjected by other Muslims. On the question of the system of separate electorates (CERD/C/299/Add.6, para. 58, art. 14 (c)), he informed the Committee that religious minorities would, in future, be able to participate directly in elections, as they had done on 3 February 1997, and remained entitled to 10 seats in Parliament.

10. In reply to the request for further information on the ethnic and linguistic composition of the population, he again emphasized that racial and linguistic groups were deeply intermingled and integrated in Pakistan and that any racial or ethnic identification was therefore difficult.

Furthermore, his Government had a vested interest in not introducing racial or ethnic differentiation, since such divisions could be detrimental to the stability and integrity of the country. Language was also an inaccurate guide since members of a single group might speak different languages according to the provinces in which they lived. The Government did not have detailed information on the socio-economic situation of the various ethnic and linguistic groups. There was no great difference in the per capita income of the various provinces, and differences between ethnic or tribal groups had little relevance. If there was discrimination, it was between the rich and the poor; the reduction of income disparities was a priority for Pakistan, as it was for all other developing countries.

11. To sum up, there was no racial discrimination in Pakistan in the sense that the Government in no way condoned or promoted racial discrimination.

12. Turning to the question of the Kalash, he said they were an ethnic and religious minority of only about 3,000 people who lived in the remote mountainous region of Chitral. They were believed to be descendants of the Greek soldiers in the army of Alexander the Great, and their unique culture was threatened by modernization and tourism.

13. With regard to the question of the Afghan refugees, he repeated the information provided in paragraphs 42-46 of the report (CERD/C/299/Add.6), emphasizing that the refugees had all the rights of Pakistanis except citizenship. They had had a great impact on socio-economic conditions in Baluchistan, where they were nevertheless well tolerated.

14. With regard to the Mohajirs, a word of Arab origin which meant "refugee" or "immigrant", he said that that minority, which was originally from India, had migrated to Pakistan after the creation of the Islamic Republic of Pakistan. Most of them had settled in the province of Sindh and its capital, Karachi. Most, but not all, of them belonged to the Mohajir Qaumi Movement (MQM), which was dedicated to safeguarding the interests of the Mohajir nation. In the recent elections, the MQM had won 12 seats in the National Assembly and was currently the second largest party in Sindh province. It would probably soon form part of a coalition government in that province which would certainly address the problems of quotas and representation that confronted the Mohajirs. Furthermore, the current Pakistani Government had begun an investigation into the allegations of human rights violations committed against the MQM by the former Government and would ensure that the guilty were punished. It had decided in principle to pay 300,000 rupees to the relatives or successors of persons killed in extrajudicial executions.

15. In reply to Mrs. Sadiq Ali's question about the Biharis, he explained that when Bangladesh had been established after its secession from Pakistan, the large Bihari community which had settled in eastern Bangladesh had been the subject of an agreement between the two States concerning voluntary repatriation to Pakistan. However, the two parties had not yet succeeded in obtaining the funds necessary to finance the transfer to Pakistan. It was to be hoped that the efforts made to implement the financial aspect of the agreements would soon meet with success.

16. With regard to the treatment of tribal areas, he emphasized that the ethnic and linguistic composition of those areas, which were inhabited primarily by the Pushtun, was no different from that of the neighbouring areas. The tribal areas were a legacy of the British colonial system and, until recently, had been covered by agreements under which their inhabitants had participated in indirect elections. They had been transferred to Pakistani jurisdiction on condition that those arrangements would continue. However, in the recent elections, the people from those areas had directly elected representatives to the National Assembly through universal suffrage.

17. In reply to requests for additional information, he said that Baluchistan, which was the largest province in Pakistan, was inhabited by three major linguistic groups: the Baluchis, the Pushtun and the Brahavis. However, its inhabitants constituted only 5 per cent of the total population. The coastal region was inhabited by the Makranis, who were said to be of African origin. They were fishermen and had never lodged a complaint of racial or ethnic discrimination with the Ministry of Human Rights or the courts.

18. He was pleased to note that some members of the Committee considered that Pakistani legislation under the Convention was better than that of other countries in the region. In reply to the Committee's comments regarding the inadequacy of measures taken in Pakistan to ensure implementation of articles 4 and 6 of the Convention, he said that his country considered that the provisions of the Constitution and the Penal Code were sufficient to guarantee implementation of the provisions of article 4. However, he promised to convey the Committee's views on that matter to his Government.

19. Turning to the question of the low level of literacy, he said that the new Government planned actively to pursue the action programme described in paragraph 51 of the report. Similarly, the rural health facilities mentioned in that paragraph had been completed or were still under construction.

20. Contrary to what one member of the Committee might believe, Sindhi was not the only official language in Sindh; Urdu and English were also official languages in that province. He denied that anyone had been refused employment because he was unable to speak Urdu or Sindhi; the quotas had been introduced in order to speed up the integration of residents of somewhat backward rural areas of Sindh. He also denied that there were 20 million bonded labourers in Pakistan; that figure, which had been quoted by an NGO with ulterior motives, was mathematically impossible, given the size of the population of Pakistan. All Pakistanis, without exception, had the right to vote.

21. In reply to the question why the word "caste" was mentioned in the Constitution, he explained that, because of the existence of a Hindu minority, it had been necessary to include in the Constitution a number of provisions guaranteeing equal treatment to all members of that community.

22. With regard to consideration of complaints of human rights violations, he acknowledged the existence of a dual system in Pakistan, since the Ministry of Human Rights took administrative decisions while the courts took judicial decisions. There was also an independent human rights commission which

carried out very important and effective work in consultation with the Government. He also recognized that there was a certain dualism in the legal system since, in Pakistan, common-law and shariah courts had equal authority.

23. He promised to convey to his Government the comments made by members of the Committee concerning ratification of the amendment on the funding of the Committee and the dissemination of its reports.

24. Mr. SHERIFIS welcomed the quality of the additional information provided orally by the Pakistani delegation. He hoped that a more regular dialogue than in the past would be established between Pakistan and the Committee.

25. Mr. WOLFRUM said he, too, appreciated the quality of the information provided by the delegation of Pakistan, although he regretted that that information had not been included in the written report. He hoped that Pakistan's next report would include more information on the federally-administered tribal areas and on the population of the border regions. While he acknowledged the legitimacy of Pakistan's frequently-stated wish not to emphasize ethnic difference out of a desire to preserve national harmony, he nevertheless reminded the delegation that it was essential for the Committee to have precise information on the various ethnic, linguistic and religious groups, communities and minorities in order to be able properly to verify implementation of the Convention. He was pleased that the Pakistani delegation was, in fact, in the process of making that possible.

26. Mr. GARVALOV (Country Rapporteur) thanked the Pakistani delegation for the extensive information it had provided and for its willingness to enter into dialogue with the Committee.

27. He pointed out that while the word "minority" did not appear in the Convention, it did include references to ethnic or racial groups. The Committee had always been interested in minorities and, when necessary, requested States parties to provide information on the ethnic composition of their population and the ethnic origins of various groups and minorities. That was, therefore, a well-established practice which met a specific need.

28. He fully understood Mr. Akram's statement that it was difficult to make an ethnic distinction between the various population groups and that the question of ethnic difference might be used to undermine the stability of the country. The Committee must consider the question how far it should go in requiring States parties to provide detailed information on the country's ethnic composition at the risk of undermining not only the stability of the State but also the integrity of the population, and whether it should not acknowledge that there were sometimes higher priorities.

29. His reference to 20 million bonded labourers had been based on an NGO report which mentioned a petition submitted to the Supreme Court on behalf of such workers. He had not been voicing a criticism, but had merely asked whether a solution had been found. He had always been careful to use the word "allegation" when necessary. He hoped that the State party would provide detailed information concerning implementation of articles 4 and 6 of the

Convention. Finally, he noted with great satisfaction that the Government had decided to restore the right of religious minorities to participate directly in elections.

30. Mr. AKRAM (Pakistan) assured Mr. Garvalov that he had not misinterpreted his remarks but had merely criticized his sources. He pointed out to Mr. Wolfrum that the situation in the northern border area was a complex one and formed part of the dispute concerning Jammu and Kashmir. The Government would give serious consideration to participation of that province in a referendum if the parties concerned agreed to hold one.

31. The CHAIRMAN said that the drafters of the Convention had been unable to foresee all the problems which might arise from its implementation. Those problems concerned both the Committee and States parties. Consideration of the report of Pakistan had enabled some progress to be made in defining areas of responsibility. He thanked the Pakistani delegation for its contribution to the dialogue and looked forward to receiving the country's next report as soon as possible. The Committee had thus concluded its consideration of the tenth to fourteenth periodic reports of Pakistan.

32. The delegation of Pakistan withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

33. The CHAIRMAN announced that a briefing with an NGO was scheduled for 2.30 p.m., prior to presentation of the report of Belgium.

34. Mr. ABOUL-NASR said that that new procedure whereby an NGO organized a briefing prior to consideration of a State party report raised a number of questions. He asked which NGO was involved and expressed concern that the meeting might be politically motivated.

35. The CHAIRMAN said that while he understood that concern, such briefings had taken place in the past. He did not know the name of the NGO in question.

36. Mr. ABOUL-NASR said he was not opposed to the holding of such briefings but saw no reason for the Committee to limit itself to a single source of information, about which, moreover, nothing was known. It was common knowledge that while many NGOs did excellent work, some of them were politicized. He took the opportunity to criticize the documentation placed by the secretariat in members' files; it was often incomplete and biased and was liable to influence the discussion. The question was a very important one since it affected the impartiality of the members of the Committee. Similarly, the list of invited participants and of the documents submitted to the Seminar to Assess the Implementation of the Convention, held in September 1996, was particularly shocking. Who, for example, had decided to invite a rabbi to make a statement? And why had the Anti-Defamation League presented two papers at that seminar? It was important to ensure a more balanced representation of all points of view.

37. The CHAIRMAN said the Committee would discuss the question of invitations under the agenda item concerning the Third Decade.

38. Mr. DIACONU (Country Rapporteur for Belgium) explained that he had been asked by the NGO in question - the Belgian Human Rights League, about which he knew nothing - to announce that briefing, which he had done with considerable misgivings. The members of the Committee were under absolutely no obligation to attend. It would be better for the secretariat, rather than members, to make such announcements since the members must preserve their independence also with regard to NGOs. As to documentation, he suggested that the secretariat should provide members with a list of all the documents at its disposal, without placing them in members' files. In that way, each member would be able to consult the documents of his choice.

39. Mr. de GOUTTES said he fully understood the concern for impartiality and independence expressed by Mr. Aboul-Nasr and found Mr. Diaconu's suggestions in that regard interesting. However, it was important that the principle on which the Committee's decision on information sources was based should not be called into question: the Committee must be able to exercise its right to consult the NGOs as sources of information. He was particularly grateful to the Anti-Racist Information Service (ARIS) and other NGOs that provided him with information which, in some cases, he would have neither the time nor the opportunity to locate on his own.

40. Mr. WOLFRUM said it was unfortunate that the current debate would require a further postponement of the discussion on Yugoslavia or Rwanda. In his view, members should have access to all sources of information and should be informed of their existence. Each of them would then be free to decide whether to use a given source. The secretariat should continue to provide the Committee with the documents at its disposal.

41. Mr. LECHUGA HEVIA felt that the question of NGOs should be considered in depth. Of course, each member was free to consult the information sources of his choice, but the secretariat should not provide information selectively since, in so doing, it in a sense gave its blessing to the NGOs whose reports it transmitted without knowing the interests which they might serve.

42. Mr. van BOVEN emphasized that the members of the Committee were all independent experts and should trust each other's opinions or sources of information. In fact, he found it encouraging that States parties generally took seriously, and replied to, the information from other sources submitted to them by the experts. In that regard, it was important that the sources used should always be mentioned so that they could, if necessary, be verified or challenged. The various Secretary-Generals of the United Nations had always attached great importance to the role of NGOs as information sources; the Committee would lose credibility if it did not maintain relations with the broader section of society represented by NGOs, and indeed not only the best-known international NGOs.

43. Mr. ABOUL-NASR considered that Committee members should have access to all information they needed. He wondered whether the sources of information provided by the secretariat, whether it be Amnesty International - which a British court had considered to be a political organization - or the United States State Department, were impartial. All of them were critical of Iraq. Other documents, which dealt with the threat to the right to life of the Iraqi population posed by the economic sanctions adopted by the Security

Council, had not been communicated to the Committee. He therefore thought the Committee should be provided with information that equitably reflected all points of view.

44. Mr. GARVALOV said, by way of example, that in analysing the situation in Pakistan, he had used not only official information but also information provided by United Nations agencies and NGOs. Personally, he welcomed the efforts of ARIS and supported Mr. Aboul-Nasr's point of view. The question of human rights could be considered from another angle, that of the people living in the countries in question. It must be recognized that human rights had different meanings in different parts of the world.

45. Mr. SHAHI said he too agreed with Mr. Aboul-Nasr, particularly as, in the case of Iraq, the press had for years had been reporting that Iraqi children were suffering from malnutrition as a result of the sanctions. The secretariat should therefore provide a variety of information sources.

46. Mr. RECHETOV said he too concurred with Mr. Aboul-Nasr. The Committee should have access to all available information. While the impartiality of some organizations could be called into question, others, such as Amnesty International or ARIS, had amply demonstrated their commitment to human rights. He noted that States generally took into account information from NGOs mentioned by the Committee. He did not think that the Committee's meeting room should be used for meetings with an NGO.

47. Mr. WOLFRUM considered that all members of the Committee needed as much information as possible, and explained that he had prepared his report on Iraq before the secretariat had transmitted the list that had been mentioned.

48. Mr. YUTZIS suggested that in the future the question of information sources should be included in the agenda since it merited the Committee's full attention. While the Committee was not always in a position to verify the information provided by NGOs, it would be a good idea to increase, rather than restrict, information sources. He pointed out that the Vienna Conference on Human Rights had emphasized that NGOs made an important contribution to the United Nations system in that regard.

49. Mrs. SADIQ ALI said that, like Mr. Shahi, she thought information sources should be as numerous and diversified as possible. In that regard, ARIS should play a major role.

50. Ms. ZOU Deci said that some NGOs were undeniably politically motivated. She wondered whether the United Nations would provide any NGO with a meeting room, even if it knew nothing about that organization. In her view, only NGOs known to the Committee should be granted such facilities. While she thought the Committee should have access to all types of information, she had noticed that the information provided by the organizations included in certain secretariat lists was sometimes biased. She also noted that some third-world countries were not in a position to provide complete information and that information concerning them was provided by Western countries. She therefore hoped that the Committee would have access to information furnished by third-world NGOs.

51. The CHAIRMAN said it was not the Committee's job to assign meeting rooms. It appeared that the NGO in question had consultative status with the Commission on Human Rights.

52. Mr. SHERIFIS considered that the Committee should rely both on the information provided by the organizations on the secretariat list and on ARIS. He was strongly in favour of multiple information sources. In that regard, he would have appreciated receiving information from various regional bodies, whether it be the Organization of American States, the Council of Europe or the League of Arab States.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1200th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-15878 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Ninth and tenth periodic reports of Belgium (CERD/C/260/Add.2)

1. At the invitation of the Chairman, Mr. de Schoutheete, Mr. van den Bulcke, Mr. Villan, Mr. San't Angelo, Mrs. Degroote and Mr. Bourgoignie (Belgium) took seats at the Committee table.

2. Mr. de SCHOUTHEETE (Belgium) said that every effort had been made to comply with guidelines on the submission of periodic reports to human rights treaty bodies (HR/PUB/91/1). His delegation was aware of the importance of the machinery provided for in the human rights instruments to which it was a party, and of the current financial and other difficulties facing treaty bodies and would do all it could to help ease the situation and comply with any specific initiatives put forward by the various committees or States aimed at rationalizing and improving their efficiency. Particularly in recent years, Belgium had endeavoured to submit reports promptly and the Belgian authorities responsible for coordinating information and drafting reports had been forced to adapt their working methods to ensure that public bodies whose cooperation was essential could be fully involved in their work.

3. The coordinating bodies also had to take account of the scope and complexity of the institutional framework in Belgium, particularly in recent years, following amendments to the Constitution which had profoundly changed political and administrative structures and the distribution of competence and responsibility of public bodies. Those changes were detailed in document HRI/1/Add.1/Rev.1 of 8 February 1995 and summarized in the annexes to the tenth periodic report (CERD/C/260/Add.2). The report tried to explain new provisions which had been introduced in recent years and policies in areas such as education, culture, employment, and housing, which were key sectors in terms of integration. The report mentioned a range of issues and attempts by the authorities to deal with them in the framework of the Government's policy of combating racism and various forms of discrimination. The report had been drafted in the hope that it would stimulate frank and fruitful dialogue with the Committee.

4. Mr. VILLAN (Belgium) said that he wished to explain the recent developments in the policy of the Walloon Region with regard to the integration of foreigners and persons of foreign origin. A decree of 4 July 1996 had defined areas in the Region where coexistence and integration needed to be improved and better organized. The integration policy in the Region aimed to promote partnership between the authorities and the private sector.

5. Each year, the Government of the Region submitted to the Regional Council a report on the integration of foreigners or persons of foreign origin. The decree provided, inter alia, for coordination, assessment, training and information at the province and commune levels through regional centres responsible for integration. A government committee also assessed the

work of such centres. Support and subsidies were provided for local initiatives in the area of social development to promote the integration of foreigners or persons of foreign origin.

6. Mr. DIACONU (Country Rapporteur) welcomed the high-level delegation sent by the Belgian authorities and the additional information provided in the introductory statement on the implementation of the Convention.

7. The Committee took note of the changes to the Constitution that had been made since Belgium's eighth periodic report. Amendments included those to the Act of 30 July 1981 on the prevention of acts of racism and xenophobia which, inter alia, increased penalties for such acts, modified the definition of discrimination and replaced the concept of national or ethnic origin by the concepts of origin or nationality. The reasons why the Act had been amended, namely that it was not widely known and seldom enforced, that prosecutors had adopted a passive attitude towards offences under the Act and that penalties under the Act were too lenient, were of interest to the Committee. However, it would be useful to know whether the situation had changed and why the authorities had seen fit to introduce the concepts of origin or nationality, terms which seemed less precise than those used in the Convention and could, therefore, make the goal of the elimination of racial discrimination more difficult to achieve and affect the full implementation of the Convention. The Committee would also like to know why only certain acts of racial discrimination were punishable under the Act and would welcome recent statistics on court cases and their follow-up.

8. Another important development in Belgian legislation was the Act prohibiting the denial, minimization, justification or approval of the genocide committed by the German National Socialist regime during the Second World War. He invited the delegation to explain further how both Acts were enforced and, particularly, how they related to the press. He asked whether complaints against acts mentioned in them could be dismissed by the courts or whether they could refuse to pass them on to the Courts of Assize, in the case of complaints against the press. If there were problems in enforcing the legislation, were there any plans to amend article 150 of the Constitution? It would be interesting to know how other Western European countries distinguished between press offences involving racism and racist propaganda.

9. The Committee had noted with interest the establishment of the Centre for Equal Opportunity and Action to Combat Racism and its sphere of competence. He asked whether the Centre had any influence on Parliament and the Government.

10. From the report it seemed that Belgian legislation established equal rights for foreigners in the area of employment and other social and economic matters. He requested information on the attitude of the public in general to foreigners, including tourists.

11. The report perhaps overstressed legislative provisions relating to refugees and foreigners who wished to settle in Belgium. There was concern at the situation of persons such as those of Moroccan, Turkish, Italian or other origin, many of whom had acquired Belgian citizenship and were therefore, technically, no longer foreigners. Similarly, were there cases of racial

discrimination in the three Regions against persons from other Belgian Communities? What was the situation in the 27 border communes, and were there cases of linguistic discrimination?

12. The Migration News-Sheet of February 1997 mentioned that complaints to the Centre for Equal Opportunity and Action to Combat Racism had risen to 90 per month in 1996. He requested information on the kind of complaints and follow-up action. He also asked whether there was any trend towards racial segregation in Belgium and, if so, what the authorities were doing to eliminate it.

13. The report had little information on the implementation of article 4 of the Convention. However, Belgium's eighth periodic report had made it clear that organizations which incited and encouraged racial discrimination had not been declared illegal. He wondered whether any new legislation had been introduced in order to comply fully with the terms of article 4.

14. As to article 6 of the Convention, paragraph 69 stated that statistics on the question of offences which qualified as racist did not accurately reflect the true situation since, in most cases, the phenomenon of racism manifested itself through an ordinary offence such as homicide, arson or assault, the racist intention being lost because attention was focused on the crime. He asked whether it was the fault of persons taking particulars of an offence or the courts themselves that the racist element in such cases was not highlighted.

15. The information relating to article 7 showed the large number of initiatives and measures in the area of education and information. Of particular interest were measures to alert journalists to the dangers of racist or discriminatory connotations in their reports, the activities of teachers and the support provided to immigrants' organizations.

16. With reference to paragraph 75, he asked for clarification of the legal status of the Declaration on Non-Discrimination in Elementary Education, and how it related to schools in practice, and information on whether they respected it and whether persons who felt they had been discriminated against could take their complaint to court. He also asked whether there was still a subsidized Muslim school in Belgium, how many schools gave mother-tongue courses and what languages were used.

17. The same section of the report described Belgium's integration policy for immigrants. It should be made clear whether the term "immigrants" covered persons who did not yet have Belgian citizenship or persons who had become Belgian citizens but were of another ethnic origin.

18. It was worth noting that the Flemish Community and the French Community had different approaches, the former allowing minority groups to express their own culture and ethnicity as a group, whereas the latter tended to integrate individuals from such groups into the community and to assimilate them. Did not such a disparity in the approach of the two Communities create excessive differences of treatment and cause dissatisfaction at the local and federal levels?

19. Another question concerned the place of the Convention in Belgian legislation. According to a reply given by the delegation of Belgium in 1992, the Convention was not "self-sufficient" and was not directly applied in Belgium. Yet in 1995, during the consideration by the Committee on the Rights of the Child of the report of Belgium on implementation of the Convention on the Rights of the Child, the Belgian delegation had stated that that Convention was directly applicable under Belgian law. If Belgium recognized the primacy of the Convention on the Rights of the Child over Belgian national law, then it should do the same for the International Convention on the Elimination of All Forms of Racial Discrimination.

20. Was Belgium giving consideration to ratifying the Framework Convention for the Protection of National Minorities?

21. The Committee would like to know whether the Government of Belgium consulted the relevant national NGOs and whether it informed them of the content of Belgium's latest report? If not, he hoped that Belgium would cooperate with such organizations more closely in the future.

22. Mr. van BOVEN said that Belgium was currently going through a period of great emotional distress for reasons not unrelated to the Convention. He noted the recent demonstration of solidarity in connection with the case of a girl of Moroccan origin who had been raped and murdered and drew attention to the courageous remark by Prime Minister Dehaene that there might have been a racist element in the failure to investigate the case effectively and expeditiously. The attitude which held that a person's worth differed depending on whether he or she was European or non-European was unfortunately encountered throughout Europe.

23. He pointed out that the Committee's concluding observations on Belgium's previous report had not been referred to in the report currently under consideration, and he urged Belgium to take them into account when preparing its reports in the future.

24. It was important for information discussed in the Committee to be accessible in Belgium. In that context, he was surprised to receive a communication from the Belgian League of Human Rights, which was affiliated with the International Federation of Human Rights, stating that in spite of its official request addressed to the Ministry of Foreign Affairs on 17 January 1997, it had been unable to obtain a copy of Belgium's tenth periodic report. He assumed that that was due to a bureaucratic misunderstanding and that the oversight would be remedied.

25. He had a number of comments to make concerning specific paragraphs. Paragraph 69 reproduced the statement by the Minister of Justice that statistics on acts of racism did not accurately reflect the true situation because, in the majority of cases, the phenomenon of racism manifested itself through an ordinary offence such as homicide, arson or assault, the racist intention being lost because attention was focused on the crime. In his view, that argument was not convincing, especially as the statistics published by the League of Human Rights, which it had quoted from a response by the Minister of Justice to a parliamentary question, suggested that the prosecuting authorities did not pursue complaints energetically because they

rarely resulted in a conviction. In his view, it was high time for the Attorneys-General to take the matter seriously and create machinery for monitoring complaints. He looked forward to reading in the next report what follow-up action Belgium had taken.

26. He welcomed the recent establishment of the Centre for Equal Opportunity and Action to Combat Racism, which was discussed rather briefly in paragraphs 17-20, and requested more information on its important activities. He noted in that regard that paragraph 20 of the report by the Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance (E/CN.4/1997/71) provided statistics from the 1995 report of the Centre that were consistent with those contained in the Migration News Sheet, which Mr. Diaconu had cited. It would be useful to know more about the nature of the complaints lodged, the complaints procedure itself and the kind of redress offered if complaints were well-founded.

27. He urged Belgium to consider establishing the body referred to in article 14, paragraph 2, of the Convention or at least making the declaration under article 14, paragraph 1. He was interested to learn that the Centre was also in charge of preparing Belgium's reports to the Committee. He took it that the Government of Belgium assumed responsibility for its contents. What role did the Centre play in the European Year against Racism proclaimed by the European Union (EU)?

28. Turning to paragraph 23, he said that, as he understood it, article 18 bis of the Act of 15 December 1980 authorizing the King to prohibit for a limited time the temporary or permanent residence in certain communes of aliens other than EU nationals and assimilated persons was no longer being applied; he hoped that that article would be repealed.

29. In connection with paragraph 31, he was aware that the period for which aliens could in certain circumstances be held pending expulsion had been extended to eight months. That was tantamount to a violation of article 3 of the European Convention on Human Rights. There was a tendency in many countries to criminalize people and deprive them of their liberty, although they had committed no offence. An illegal alien was not a criminal.

30. In 1975, when Belgium had ratified the Convention, it had made a declaration on article 4 saying that a balance needed to be struck between the elimination of racial discrimination and freedom of association and expression. Given the persistence of racism and the adverse impact of racial violence and hatred on society, he wondered whether Belgium would strike a different balance today; many European countries had amended their legislation to strengthen the application of the Convention.

31. Lastly, he observed that the General Assembly had adopted an amendment to article 8, paragraph 6, on financing; it would help strengthen the Committee if Belgium joined other States parties in ratifying it.

32. Mr. VALENCIA RODRIGUEZ noted that, according to paragraph 3 of the report, Belgium was the only country in the world whose Constitution

recognized the autonomous capacity of its federated entities to conclude treaties. For his part, he would continue to assume that Belgium as a federal State was the only entity responsible for fulfilling the obligations which it had entered into under the Convention.

33. With regard to paragraph 10, he asked why Belgium had replaced the concept of "national or ethnic origin" by the concepts of "origin" or "nationality" and what the legal consequences of that amendment were, particularly with regard to article 1 of the Convention.

34. Turning to paragraph 11, which explained that the Act of 23 March 1995 had filled a gap in the Act of 30 July 1981, no provision of which had prohibited the denial of or apology for crimes against humanity or war crimes, he inquired whether there had been any cases before the Belgian courts in which such acts had gone unpunished. He would like to receive more information on what had led to the adoption of the 1995 Act.

35. He was pleased that article 150 had been included in the list of articles of the Constitution to be revised and that the Government of Belgium intended to invite Parliament to consider the question of penalties for offences against legislation on the press (para. 16 of the report). Had there been any recent developments on that matter?

36. He welcomed the establishment of the Centre for Equal Opportunity and Action to Combat Racism (para. 17) and looked forward to hearing more about the results of its activities. Another positive step had been the setting-up of training programmes for the police and gendarmerie and criminal investigation officials (para. 20). That could have an important impact in everyday life. There again, he would like to know whether the initiative had been successful.

37. With regard to paragraph 26, he requested more details on the criteria for considering requests for asylum. Concerning paragraphs 33 and 34, he inquired whether there was any supervision to ensure that the authorities did not make excessive use of legislation to prevent marriages of convenience. And in connection with paragraph 35, what measures had been taken to combat illegal immigration?

38. He also wished to know more about the types of post in the Flemish government departments to which non-EU citizens could be recruited, as stated in paragraph 45. He drew attention to paragraph 55 and the importance of the Act of 28 June 1984, which terminated the Belgian nationality requirement for the staffing of certain associations. He asked what results had been achieved since that Act had entered into force.

39. The launching of the "European Passport against Racism" and the "Schools Without Racism" campaigns were both positive measures taken by Belgium pursuant to article 7 of the Convention.

40. Referring to a number of terms used in the context of the Government's immigration and integration policies, he asked for clarification of the following: "integration" and "public policy" in paragraph 89; "nomad children" in paragraph 101; and "risk group" in paragraph 115. In his opinion, the

references, in paragraphs 93 and 98 respectively, to "Anglo-Saxon and Latin strategies and approaches" to integration and the concept of "black" and "white" schools were discriminatory.

41. Mr. de GOUTTES observed that Belgium provided an interesting example of the coexistence of two strategies on the integration of foreigners, and was curious to know whether, on the basis of the information available, it was possible to determine which of the two approaches had produced the more successful results.

42. He invited the delegation to comment on a report submitted to the Committee by the Belgian League of Human Rights, which alleged that there were discrepancies in the implementation of the Convention, and that some formulas used to designate foreigners might have a negative impact. Proposals made by the Centre for Equal Opportunity and Action to Combat Racism had not been adequately implemented, in the League's opinion. The League had also been critical of the Act of 30 July 1981 on the prevention of acts of racism or xenophobia, describing it as insufficient and poorly enforced. It would be useful for the Committee to have an update on information on that and any other pertinent legislation.

43. Denial of evidence of crimes against humanity had sparked a difficult debate in the international community and he wondered whether cases had arisen pursuant to the Belgian Act of 23 March 1995 passed to deal with the same issue. He also referred to paragraph 15 of the report on obstacles to the prosecution of offences against the legislation on the press, and asked whether those obstacles concerned particular acts of racist denial or all racist offences, as provided for under article 4 (a) and (b).

44. With regard to article 6, paragraph 69 acknowledged the dearth of statistics on offences categorized as racist in character. As stated in that paragraph, in most cases racist acts were prosecuted as ordinary offences and the racist intent was lost. He therefore asked whether in Belgian law the charge concerned the racist intent and not the racist act as an autonomous offence.

45. He inquired about the roles of the Centre for Equal Opportunity and Action to Combat Racism and the Ministry of Foreign Affairs in the preparation of the periodic report and asked what was the nature of cooperation between the Centre, NGOs and government authorities.

46. Finally, he pointed out that there was no incompatibility between the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination with regard to the acceptance of complaints. He wished to know where Belgium currently stood on the issue of the declaration provided for in article 14 of the Convention.

47. Mr. ABOUL-NASR, commenting on paragraphs 11 and 12 of the report, said that, if his interpretation of those articles was correct, the Act of 23 March 1995 was discriminatory in so far as it related to the victims of Jewish genocide during the Second World War, to the exclusion of the genocide committed against other groups throughout modern history.

48. Mr. SHERIFIS welcomed the establishment of the Centre for Equal Opportunity and Action to Combat Racism, which was consistent with a specific recommendation adopted by the Committee in 1993. He looked forward to hearing more about the functions of the Centre and its contribution to the objectives of the Convention. He asked the delegation to clarify information given in the core document on Belgium (HRI/CORE/1/Add.1/Rev.1) in 1995 relating to coordination between the Centre and the Ministry of Foreign Affairs in the drafting of the periodic report. He also asked for clarification of the term "displaced persons" as used in paragraph 28 of the tenth report with reference to Yugoslavs in Belgium.

49. The tenth report, coupled with the core document, was extremely interesting and useful; nevertheless, he hoped that the next report would adhere more closely to the reporting guidelines established by the Committee.

50. With reference to the enjoyment of the rights provided for under article 5 of the Convention, he asked for confirmation that the rights of freedom of movement and residence and the right to own property applied to all members of the three linguistic communities in Belgium. He requested the delegation to explain the participation of persons living outside the region from which they originated in the election of officials to the Community Council. It was also unclear from the core document how the Communities were represented in the civil service and diplomatic service at the federal level.

51. Mr. WILLEMS (Belgium) thanked the Committee for the keen interest it had taken in the periodic report, as evidenced by the number and depth of the questions it had put to his delegation. His delegation was, of course, willing to continue its frank and open dialogue with the Committee by providing the most comprehensive responses possible. The Committee might detect some differences between Communities, but it should be borne in mind that all aspects were covered by the same federal framework.

52. Mr. SAN'T ANGELO (Belgium), responding to comments and questions about the Centre for Equal Opportunity and Action to Combat Racism, said that the Centre had been established in 1993 as a permanent body to succeed the Office of the Crown Commissioner for Immigration Policy, whose mandate had been limited to four years. Among its wide range of functions were many of direct relevance to the Convention. Much of its work consisted - and increasingly so - in receiving and handling complaints. In addition to the Centre's headquarters in Brussels, there were now 12 branches throughout Belgium, which made it more accessible to citizens. The branches both received complaints and performed a watchdog function. Great importance was attached to close partnership with NGOs working in the field and local authorities. Where possible, the Centre endeavoured to work through mediation in an attempt to find amicable solutions to the wide range of complaints filed. Where attempts at mediation failed, however, it was also now legally authorized to bring claims before an examining magistrate. The main reason for the increase in the number of complaints was that the 1981 Act and the work of the Centre were now more widely known. The Centre had also prepared the judicial ground through its contacts and ongoing relations with prosecutors' offices, which had appointed a judge responsible for liaison with the Centre in the areas under their jurisdiction, thus assuring follow-up to complaints. For instance, the Centre would be advised in advance of any indication that the

Prosecutor's Office might wish to drop a case, and could then have a final meeting with the Prosecutor's Office in an attempt to pursue the case. Many complaints were now being processed and the Act was well implemented through the Centre's activities; any delays in handing down sentences were more the result of the slowness of judicial proceedings in general.

53. The Centre had also made a number of proposals for further amendments to the 1981 Act, considering that the 1994 amendments, though positive, did not go far enough. It was particularly concerned, for instance, to amend the legal procedure concerning the prosecution of offences against the legislation on the press and hoped that its proposals to that effect, now being examined by the Government, would soon lead to an amendment. Its proposals focused on introducing penalties for offences against the legislation on the press and amending the procedure whereby only the Courts of Assize had jurisdiction in such cases. Other proposals concerned the furnishing of evidence and aggravating circumstances. A crucial mechanism in ensuring follow-up to the Centre's proposals was the regular interministerial conference for immigration policy chaired by the Prime Minister, for which the Centre set the agenda and which resulted in firm commitments for action by the ministers. The Centre was not a consultative body but a central motor in political decision-making.

54. The Centre drafted the basic text of Belgium's periodic report to the Committee. That text was then transmitted to the Ministry of Foreign Affairs for coordination with the various ministerial departments, especially those of the Regions and Communities, which would add to it data not available to the Centre. In drafting the report, account was taken of the Committee's previous observations. Pursuant to its statute, the Centre worked in close, constant cooperation with NGOs, organizing regular round tables and working groups. If the Committee so wished, it would consider the possibility of submitting the next draft report to NGOs for comments. The final report could also be made available to NGOs, together with the Centre's annual report.

55. Mr. VILLAN (Belgium) drew attention to the additional document which had been circulated to members concerning the integration policy pursued in the Walloon Region, pointing out that all entities were associated in the preparation of Belgium's report to the Committee. A suggestion that could be taken up in the future was to submit the report to the interministerial conference before transmission to the Committee.

56. Mr. van den BULCKE (Belgium) said, with regard to the direct applicability of the Convention, that it was true that most of the provisions of the Convention on the Rights of the Child were directly applicable in Belgium, while those of the International Convention on the Elimination of All Forms of Racial Discrimination were not. Since 1971, the primacy of international treaty law was recognized in regard to the provisions of international conventions having direct effect. The reply to the crucial question of which provisions had direct effect lay in the wording of the provision concerned. If an obligation or right was formulated in such a way that a person could invoke a specific, well-defined right, the provision would have direct effect and have primacy over any provision in domestic law.

57. On the subject of the current debate in Belgium on the functioning of the police and judicial authorities, he said that the issue was an important

one because the procedure was such that it was the police and judicial authorities that handled the investigation and prosecution of complaints about discriminatory acts. Plans to modernize the judicial apparatus had already been initiated by the previous Government and had been taken further by the present Government as a matter of priority. Since the emergence of several scandals involving, in particular, child abuse and murder, a wide-ranging political debate involving all sectors of society had been launched, and the functioning of the police and judicial apparatus was being examined in depth. Proposals were already under preparation and included providing the Ministry of Justice, together with the Public Prosecutor's Office, with more effective means for directly initiating proceedings for the prosecution of complaints concerning racial discrimination.

58. Regarding the Constitution and the organization of the State, it was true that the Constitution recognized the competence of Belgium's federated entities to conclude treaties, but it also clearly provided for consultation between the Communities, Regions and the Federal State, to ensure the continuity of international obligations, and for State responsibility in the event of non-execution of international treaty obligations.

59. As to the division of responsibility and competence between the various entities, particularly with regard to freedom of movement and residence, there was no such thing as a nationality attaching to a particular Community. The citizens of Belgium were Belgian nationals and could settle freely anywhere on Belgian territory. There were special rules governing election to the legislature of a Region or Community and membership of an executive, but residence was the main criterion. There was also no distinction on grounds of membership of a Community in regard to access to public service, the main criterion being the capacity of a person to perform the requisite duties, which was determined through examinations. A knowledge of languages was obviously crucial in such examinations. With the exception of certain specific posts relating, for instance, to public order, there was also free and effective access to posts in the public service by persons of foreign nationality from the EU countries, and also, for contractual posts, by non-EU citizens.

60. The training of police officers was considered extremely important in preventing racial discrimination. Aware as it was that, in addition to training, more regular contact was needed with members of foreign communities and that problems of racism existed within the police, the Ministry of the Interior, together with the Centre for Equal Opportunity and Action to Combat Racism, were now running schemes to encourage the recruitment of persons of foreign origin to the police.

61. There had been a decrease in the number of asylum-seekers in Belgium in recent years. That did not necessarily mean that illegal immigration had declined, although there was no indication of a rise in such immigration. The criteria followed when examining a request for asylum were based solely on those provided for in the Convention relating to the Status of Refugees. In Belgium, all applications for asylum were and would be examined and all decisions could be appealed. The only exception was that a person entering

Belgium on a visa issued in another Schengen-area country and applying for asylum would be transferred to that country, whose authorities would be responsible for examining the application.

62. The criteria for being accorded the status of "displaced person" differed from those provided for in the above-mentioned Convention and had originally been introduced to ease the workload of the bodies responsible for examining asylum applications. Usually, that status had been accorded primarily to refugees from war zones.

63. It had been suggested that Belgian policy tended to criminalize foreigners or illegal immigrants. In fact, the Government's policy was carefully calibrated, the guiding principle being to strengthen the services and bodies responsible for facilitating access to and residence on Belgian territory. Immigration by those who qualified under the rules in force was still fairly substantial.

64. The CHAIRMAN invited the Belgian delegation to resume its replies at the following meeting.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1201st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-15887 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Ninth and tenth periodic reports of Belgium (CERD/C/260/Add.2; HRI/CORE/1/Add.1/Rev.1) (continued)

1. At the invitation of the Chairman, the members of the delegation of Belgium resumed their places at the Committee table.

2. Mr. van den BULCKE (Belgium) said there was no reason to fear that the immigration policy of the Belgian Government would end up criminalizing the immigrant. A serious assessment of that policy should take into account the global approach to the question of immigration, including provisions protecting the rights of immigrants under detention while awaiting repatriation to their country of origin.

3. With regard to the struggle against illegal immigration, the Government was primarily targeting people who exploited illegal immigrants, for example by curbing the use of illegal labourers and traffic in persons. It made an effort to organize repatriation humanely of immigrants who had not obtained a residence permit in Belgium, for instance by encouraging their voluntary departure.

4. Legal protection was planned for immigrants placed in detention while awaiting repatriation. If appropriate, the detention, which could be as long as two months, could be prolonged, in conformity with the law and under the supervision of the competent courts.

5. In connection with the fight against marriages of convenience, the courts could be asked to perform checks. The Government was in the process of preparing supplementary provisions in order to clarify the rights and obligations of persons with regard to marriage with immigrants, observing the greatest respect for the fundamental right to marry.

6. Mr. SAN'T ANGELO (Belgium), replying to questions raised by members of the Committee on the application of the anti-racist laws, said that Parliament had doubtless been somewhat hasty in replacing the concept of national origin with that of nationality for reasons of logistical consistency, but that the amendment had had no practical effect. In any event, the Centre for Equal Opportunity and Action to Combat Racism would propose reverting to the concept of national origin, in conformity with the Convention.

7. Turning to offences against the legislation on the press, he said that the courts could declare themselves incompetent, but not the investigating bodies or the public prosecutor. Belgian legislation punished racist acts only if the racist intent had been sufficiently proved. The purpose of the 1994 reform had been to facilitate the establishment of proof of racist intent. By virtue of a decision of the Court of Cassation, however, the existence of the offence and the prosecution of its author did not depend on

an actual act having been committed. In addition, the 1995 Act punished the perpetrators of genocide and equated revisionism with incitement to racial hatred and violence and to anti-Semitism.

8. He assured the Committee that Belgium had no particular difficulty in preparing statistics on combatting racism and should be able to submit them in its next periodic report, broken down article by article, as requested.

9. With regard to the ban on racist organizations, the Constitution did not permit associations to be banned. However, the conviction of members of small organizations under article 3 of the 1981 Act generally resulted in those organizations dissolving themselves, which compensated for the fact that they could not be banned. The problem remained, however, vis-à-vis large organizations and political parties. Much was expected of the ongoing reform of justice, legal proceedings and provisions on caring for and compensating the victims of racist acts.

10. The federal State had initiated the procedure of seeking Parliament's approval of Belgium's accession to article 14 of the Convention. At the same time, it was looking into the practices of States that had acceded to the Convention, particularly with regard to the establishment within their legal system of a body competent to consider petitions from individuals complaining of violations of the rights enunciated in the Convention. Belgium nonetheless feared the legal consequences of a proliferation of protocols aimed at giving all the human rights conventions mechanisms for the submission of complaints from individuals. It was particularly worried about the risks of overlap and about the still-embryonic nature of the case law of the treaty bodies.

11. Mr. VILLAN (Belgium) said that the integration of immigrants into the Walloon and Flemish communities had taken different forms because of various socio-historic factors. Having begun much earlier and been initially European in origin, immigration to Wallonia had been facilitated by the existence of common places of work and living, which had encouraged solidarity between immigrants and locals, and by the fact that the first wave of immigrants had belonged to a common European cultural matrix.

12. The population that came from member States of the European Union was larger in Wallonia than in Flanders. In the Brussels region, on the other hand, the community of Maghreb and Turkish origin was especially large but did not work or live in the same places as Brussels natives. Some 30 per cent of the people in Wallonia were of foreign origin, whereas in Flanders the figure was 12 to 13 per cent. Similarly, the "new Belgians", namely, persons born on Belgian territory of foreign parents, who were therefore able to acquire Belgian nationality, were to be found in all the communities, although they were particularly numerous in Wallonia and the Brussels region.

13. In Wallonia, the integration of foreigners had been organized jointly by Belgian and immigrant associations and the local authorities. The concept of integration had been defined and accepted at the federal State level and was therefore the result of joint consideration by the linguistic communities. In the French-speaking area, the emphasis was on learning French as a second language, combatting school drop-out, citizenship, combatting racism, mediation and social and professional integration. The "success schools" and

priority education zones were also stressed. Intercultural mediators had been designated to facilitate the scholastic integration of young immigrants. Similarly, health mediators were working to ensure that cultural factors were taken into account in preparing medical diagnoses.

14. Mrs. DEGROOTE (Belgium) turned to the legal aspects of implementation of the Declaration on Non-Discrimination in Elementary Education in the Flemish community, which was reflected in a multi-pronged action. The Minister of Education had adopted an approach based on voluntary participation rather than a legalistic approach, as the Constitution provided for freedom of choice as to education. Furthermore, 70 per cent of the education sector in Flanders was accounted for by Catholic institutions independent of the State. A legalistic approach would risk setting the Catholic schools against students from immigrant backgrounds, particularly Islamic backgrounds. All the communities had reached voluntary agreements concerning access to schools. Parents who were not happy with the arrangements could turn to extra legal mediation or to a judge. However, the relevant case law was not consistent, and freedom of education remained a major element.

15. The expression "white schools" referred to schools where there were no or almost no immigrant students, whereas "black schools" meant the contrary, which was explained in paragraph 98 of the report.

16. Mr. van den BULCKE (Belgium) said that information which could not be provided either in writing or orally would be included in the next periodic report of Belgium. Following the recent tragedies there, public opinion and the authorities were reflecting on what steps to take to institute justice with a human face. The Committee's observations would therefore be all the more valuable to Belgium.

17. Mr. FERRERO COSTA asked whether he understood correctly that children born in Belgium to alien parents automatically acquired the possibility of obtaining Belgian nationality. If that was only a possibility, it would mean that Belgian legislation did not respect the principle of jus soli. If so, he wished to have explanations on the reasons for the restriction. The Belgian Government should also submit its reports with greater regularity than it had done in the past.

18. Mr. GARVALOV said that the case of Belgium demonstrated that language was not necessarily the only criterion the Committee should use in deciding on ethnic differences, but nor should it ignore it, even if languages and religions were less rigorous criteria than ethnic origins. In that regard, he recalled that the General Assembly in 1992 had adopted a Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, affirming the validity of those criteria.

19. Mr. SHAHI asked precisely to what extent each of the paragraphs of article 4 of the Convention was being implemented and what were the activities of the Centre for Equal Opportunity and Action to Combat Racism.

20. Mr. van BOVEN repeated the question he had raised on 12 March as to why the Ministry of Foreign Affairs had been unable to provide the Belgian League of Human Rights with a copy of the report of Belgium, as requested by the

League. He presumed there had been a misunderstanding. There was a political party in Belgium, the Vlaams Blok, which had many members, particularly in Flanders, and which in many ways could be considered as racist. He understood that there were no plans to declare it illegal, and therefore asked whether criminal proceedings had been initiated against its members who were, by making racist remarks, infringing the 1991 Act, amended in 1994. He also asked how respected the party was in political life, and whether it had any elected officials at the local and federal levels.

21. Mr. de GOUTTES said that the Belgian delegation had made an important observation on the distinction between the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination in terms of their direct applicability. Did that mean that the provisions of the latter were not directly applicable? It did, however, seem that Belgium was one of the "monist" States (for which ratified treaties had primacy over domestic law as well as direct effect), as opposed to "dualist" States (in which a national law was needed in order for treaties to be applied domestically).

22. Mr. LECHUGA HEVIA, referring to paragraph 23 of the Spanish version of the report, said he did not understand what was meant by "países análogos" (similar countries) and asked whether the restriction under article 18 bis did not risk provoking racist acts.

23. Mr. ABOUL-NASR said he hoped that the Belgian delegation would reply to his question about genocide. He was surprised that Mr. van Boven had asked why Belgium's report had not been transmitted to an NGO. Returning to article 9, he said that the Convention in no way obliged States parties to transmit their report to anyone other than the Secretary-General.

24. Mr. van BOVEN said that he was merely following the recommendations contained in several resolutions of the General Assembly.

25. The CHAIRMAN, speaking in his capacity as a member of the Committee, said he hoped Belgium would subsequently provide the Committee with details on the text of the Act penalizing the denial of the Holocaust.

26. Mr. van den BULCKE (Belgium) said that on 12 March he had asked the Ministry of Foreign Affairs why the Belgian League for Human Rights, had not had access to the report, but he had not received a reply, as the competent official was ill. The delegation had duly noted the question, which affected the very credibility of the country's institutions.

27. Mr. SAN'T ANGELO (Belgium) replied to other questions raised by members of the Committee. In connection with the acquisition of nationality, he said that, traditionally, Belgium was a country of jus sanguinis. Since 1984, however, there had been a trend towards jus solis. Currently, when both parents of a child born in Belgium had lived there for at least 10 years, they could file a declaration of Belgian nationality on behalf of their child before he or she reached the age of 12. If, on the other hand, one of the foreign parents was born in Belgium, the child automatically acquired Belgian nationality at birth.

28. The 1981 Act, as amended in 1994, was an application of article 4 of the Convention. The activities of the Centre for Equal Opportunity and Action to Combat Racism were highly diverse and could be described in greater detail in the next report.

29. A preliminary attempt to take legal action had been made against the Vlaams Blok but had come up against the problem of offences against the legislation on the press. Another action had been filed in reaction to the publication of a brochure, but other evidence was being gathered in an attempt to avoid the same hurdle. Article 3 of the Convention would certainly be invoked. No burgomaster, mayor or alderman was a member of the Vlaams Blok, but several municipal councillors belonged to that party in Flanders, where there were many voters. Belgium did, however, abide by the democratic rules, and Vlaams Blok had the same constitutional rights as other parties.

30. Article 18 bis had never been applied to paragraph 23. The Spanish translation was undoubtedly incorrect: the phrase referred to "foreigners other than European Community and assimilated foreigners". The term "assimilated" was one of Community law, by which a non-European foreigner who married a European enjoyed the status of European through assimilation.

31. On the question of the direct applicability of the Convention, Belgium did make a distinction between the provisions, some of which were directly applicable, or in other words could be invoked directly before the courts. As to languages, the Constitution clearly defined the right to use each language freely. That was a very important principle. There were other specific regulations concerning the languages used for communication with the authorities. The Vlaams Blok was not represented at any level of the Executive branch.

32. Mr. DIACONU (Country Rapporteur) welcomed the very interesting dialogue that had taken place with Belgium and drew several general conclusions from it. Greater consistency and enhanced coordination should be secured within the legislative system if the new anti-discrimination laws were to be effectively implemented and not come up against the hurdle of offences against the legislation on the press. Greater effort was needed in the application of anti-racist legislation to avoid a situation of de facto impunity. The authorities, including parliamentarians, should also be more concerned with shaping public opinion so as to prevent foreigners from being considered as enemies. The Committee, and the Belgian authorities, should encourage the activities of the Centre for Equal Opportunity and Action to Combat Racism, which had an extremely important role to play in ensuring to the extent possible that the Convention was implemented uniformly throughout the territory.

33. The CHAIRMAN thanked the Belgian delegation for the very useful exchange of views, which should contribute to an enhanced implementation of the Convention. The Committee had thereby concluded its consideration of the ninth and tenth periodic reports of Belgium.

34. The delegation of Belgium withdrew.

Review of implementation of the Convention in States parties with long-overdue reports

Cameroon

35. At the invitation of the Chairman, the members of the delegation of Cameroon took places at the Committee table.

36. The CHAIRMAN recalled that, in conformity with the decisions taken at its forty-ninth session, the Committee had planned to review the status of implementation of the Convention in several States parties whose reports were long-overdue. Such a State was Cameroon, which had been invited to participate in the exchange. Insofar as it was relatively unusual for States parties to respond to such an invitation, he welcomed the presence of the delegation of Cameroon. In undertaking its assessment, the Committee would endeavour not to raise questions that were not relevant to the Convention, as it had sometimes been tempted to do in the past.

37. Mr. YOUMSI (Cameroon) thanked the Committee for its warm welcome and regretted the delay in submitting his country's periodic reports. His delegation had attempted to fill in the gaps observed by the Committee in the eighth and ninth periodic reports (CERD/C/171/Add.1).

38. Regarding the first part of the report ("General information"), the members of the Committee had asked for additional information on several points. Referring first of all to the composition of the population, he said that, according to the most recent general census, which dated from 1986, Cameroon had 12,903,000 inhabitants, 51 per cent of whom were women and 49 per cent men, 40 per cent of whom were under age 15, 50 per cent between ages 16 and 64 and 10 per cent over 65. The demographic growth rate was 2.6 per cent. One third of the population lived in urban centres. Life expectancy was 59 years for women and 54.5 years for men. The literacy rate, currently in decline, was 68 per cent, one of the highest rates of that African subregion.

39. The population was composed primarily of Bantus in the south, the coastal area, the centre, the south-west and the south-east; of Sudanese and Peuls in the provinces of Adamaoua, the north and the far north; and of Choa Arabs in the Lake Chad valley.

40. Regarding voting modalities, Act No. 92/002 of 14 August 1992 stated that municipal councillors were elected on a single ballot by a majority proportional vote. Each list should be representative of the different social segments of the district. The mayor was elected by the municipal council. Those provisions had become applicable as of the first pluralistic municipal elections of 1996.

41. Act No. 91/20 of 16 December 1991 stipulated that the election of deputies to the National Assembly was to be carried out by voting for several members from a list, without either a preferential vote or vote-splitting. Each political party that was authorized by the law submitted a list comprising as many candidates chosen from among its members as there were seats to be filled. In that case as well, each list had to represent all the

district's social segments. The provisions had been applied during the first multi-party legislative elections of 1992. Four political parties were now represented in Parliament.

42. The multi-party system had progressed. The opposition parties had taken part in the three elections held since the institution of the multi-party system in 1990. They had presented 8 candidates in the 1992 presidential elections, and in the same year, 36 parties had presented themselves at the legislative elections. Thirty-eight parties had participated in the 1996 municipal elections and 15 of them were represented on the municipal councils. In the cities, many mayors' offices were being run by the opposition.

43. With regard to measures taken to encourage equality between the sexes, Cameroonian women had access to all jobs, including in the public sector, where they accounted for 32.6 per cent of staff; in the National Assembly, where there were 22 women, or 12 per cent of deputies; on the Supreme Court, where one woman had reached the rank of counsellor and another was President of the Appeals Court; and in the Government, of which 2 general secretaries were women.

44. Women accounted for 52.8 per cent of workers in the tertiary sector. The Chief Executive Officer of the National Investment Corporation (SNI), which controlled all State-owned enterprises, was a woman. Some 43.8 per cent of employees in the medico-social sector were women. In all sectors of activity, there was equal remuneration between men and women, and most of the political parties encouraged the advancement of women to electoral functions, both legislative and municipal.

45. In connection with the implementation of article 2 of the Convention, the preamble to the Constitution of 18 January 1996 provided that the State secured the protection of minorities and preserved the rights of indigenous populations.

46. Schools were built in the least developed areas of the country and health centres were established. As part of international cooperation, studies were carried out in order to understand the life style of certain groups and, through the appropriate assistance, to encourage their endogenous development. To that end, there was a support project for the self-advancement of the Pygmies.

47. On articles 4 and 6 of the Convention, article 45 of the Constitution stated that ratified international treaties or accords took precedence over national legislation. The provisions of the Convention could therefore be invoked before the administrative authorities and the courts. If those provisions called for charges to be brought, it was vital that the appropriate penalty should be incorporated into domestic criminal law.

48. As at 1 June 1995, there had been 45,813 refugees from Chad, Rwanda, Equatorial Guinea, Burundi, Zaire, the Sudan and Liberia. They were increasingly numerous, as Cameroon was a land of asylum and a melting pot. The refugees were taken care of by the Office of the High Commissioner for Refugees (UNHCR), which had an office in Yaoundé, and by the Government.

Most of them were part of the formal or informal economic sector. However, they would have to return to their countries once the repression there had ended, except for those who in the meantime had acquired Cameroonian nationality.

49. With regard to house searches, the Criminal Investigation Code, part of the French legacy, and the rules of criminal procedure which were part of common law applied. Those instruments set forth the conditions for house searches, including authorization from a judge or, in cases of flagrante delicto, the consent of the master of the house.

50. Since the repeal of the emergency laws in 1990, and the democratization that had accompanied the multi-party system, Cameroon no longer had any real opponents of the regime or persons imprisoned without having been indicted or tried for endangering public order or another offence.

51. In connection with restrictions on freedom of expression and the press based on unity, national security, public order and decency and morals, Act No. 90/52 of 19 December 1990 on freedom of communication stipulated that the decision to seize an indicted press organ was taken by the competent administrative authority. The Minister of Territorial Administration could also ban a press organ. An appeal against a decision to seize or ban could be lodged with the competent judge. Censorship had been abolished by Act No. 96/04 of 4 January 1996.

52. A National Human Rights and Freedoms Committee had been established in 1990. Among other activities, it publicized human rights instruments and collected and disseminated international texts on human rights and freedoms.

53. Mr. de GOUTTES (Country Rapporteur) thanked the delegation of Cameroon for having come specially from Yaoundé, which demonstrated Cameroon's willingness to resume contact with the Committee after an interruption of more than six years. In August 1990, at the thirty-eighth session of the Committee, Mr. Ahmadu had stated that the Cameroonian Government was one of the few in Africa to submit its periodic reports, pay its dues and send a delegation during consideration of its reports by the Committee. Since 1990, the domestic situation of Cameroon had changed greatly: following the introduction of the multi-party system in late June 1990, the March 1992 legislative elections had given a relative majority to the party of President Biya, the Rassemblement démocratique du peuple camerounais (Cameroonian People's Democratic Movement). The October 1992 presidential elections, held under an absolute-majority, single-ballot system, had led to the President's re-election. A constitutional amendment had been adopted by the Assembly in December 1995 and had permitted the creation of a Senate, a Constitutional Court and decentralization. He wondered whether that reform had actually been realized in full.

54. The January 1996 municipal elections had brought victory to the Social Democratic Front (SDF) and the National Union for Democracy and Progress (UNDP)in most of the large cities. Legislative and then presidential elections were to take place in March, April and October 1997. However, the opposition was complaining about obstacles to the registration of voters in

areas that did not support the Government. The opposition believed that the transparency of the upcoming elections was uncertain as the Government had stood in the way of plans to train national elections observers.

55. In the absence of a written report from Cameroon, he had drawn on the following sources of information: various United Nations bodies; the second periodic report submitted by Cameroon to the Human Rights Committee, in 1993 (CCPR/C/63/Add.1); the March 1994 report of the Human Rights Committee to the General Assembly (A/49/40); the report of Amnesty International; and the 1996 human rights report of the United States Department of State. In the light of that information, he reminded the Cameroonian authorities of the need to comply with their obligations under the Convention by providing information in their next periodic report, combining the tenth, eleventh and twelfth overdue reports, on the country's socio-political situation and on the implementation of articles 2-7 of the Convention. In order to prepare its report, the Government should, if it thought it necessary, request the assistance of the Centre for Human Rights.

56. The next report should provide fuller information on the composition of the population. The information just provided by Mr. Youmsi was inadequate. In the next report, statistics should describe the various ethnic groups, which the delegation had numbered at 200 in 1990. The Committee would also like to be informed of the breakdown of refugees by nationality.

57. Regarding the implementation of article 2 of the Convention, the Government should provide the Committee with additional information on the so-called positive measures it had taken to ensure the adequate development and protection of certain minority groups in less developed areas of the country, particularly the Pygmies and Bantus. Were they receiving Government assistance? What were the living conditions of the Pgymies in the resettlement areas?

58. According to the report of the United States Department of State, the Beti ethnic group, to which President Biya belonged, held all the key posts in the Government, the security forces and the army. The Committee would like further information on that situation, which appeared to be based on the domination of one ethnic group by another.

59. The Committee wished to be better informed on the functioning of the National Human Rights and Freedoms Committee and other organizations involved in combating racial and ethnic discrimination. Did that body make its work public? What were its plans? In February 1996, the first African regional conference of national institutions for the protection of human rights had been held at Yaoundé. Further information on that conference and on Cameroon's contribution would be welcome.

60. Concerning articles 4 and 6 of the Convention, the Committee wondered whether the reforms of the Penal Code and the Code of Criminal Procedure mentioned in the previous report allowed for all cases of racial or ethnic discrimination to be tried and punished. In connection with the judicial authorities, the United States State Department report mentioned the malfunctioning of justice in Cameroon but also the phenomena of corruption and pressure placed on judges by the Executive branch. The Committee would like

information on that point. Was it true that there were still "private prisons" in the north of the country placed under the authority of the traditional chiefs, the Lamibés, who were not subject to the authority of the penitentiary system?

61. In relation to article 5 of the Convention, as in 1990, the Committee would like more information on the economic, social and cultural rights enjoyed by minority and ethnic groups in Cameroon, particularly in the fields of health, education, culture and religion. Were those groups represented in the elected bodies? What were the illiteracy and school enrolment rates? How were the different ethnic minorities integrated into public life, the army, the police, the magistrature and the administration? Was it true, as indicated in the 1996 report of Amnesty International, that there had been serious intercommunity clashes in the Nord-Ouest province?

62. Furthermore, as the Committee had done in 1990, he asked the Government to clarify the effects of the coexistence in Cameroon of two different legal systems.

63. In reference to article 7, the Government should provide information on its efforts to promote public awareness of the provisions of the Convention and the Committee's conclusions and to ensure training in human rights and inter-ethnic tolerance for law enforcement officers, particularly members of the security forces. According to Amnesty International and the United States Department of State, they had committed acts of violence and abuses against civilian populations.

64. Mr. FERRERO COSTA, agreeing with Mr. de Gouttes, suggested that the Government should ask the Centre of Human Rights for assistance in preparing its report. He asked how a country with 200 different ethnic groups could be exempt from all problems of racial discrimination, as the Cameroon representative had stated in 1990. Should such problems exist, what steps was the Government taking to eliminate racial discrimination? It seemed that a reform of legislation was needed so as to apply article 4 in full. He wished to know the situation of languages other than French and English. He would also like to know more about the functioning and powers of the National Human Rights and Freedoms Committee.

65. He requested clarification on the planning system mentioned in paragraph 309 of the Committee's report to the General Assembly (A/45/18), which had been implemented to establish a balance between the various ethnic groups and provinces in the country.

66. Mrs. SADIQ ALI, supported by Mr. Ahmadu, asked how many Rwandan refugees there were in Cameroon and how many of those who had been suspected of participating in the genocide had been repatriated to Rwanda at the request of the Rwandan Government.

67. Mr. AHMADU commended Cameroon for having, since its previous report (CERD/C/171/Add.1), held free and fair elections, taken a number of steps to integrate ethnic groups, and adopted many legislative provisions in conformity with the Convention. He asked the delegation if it was true that the mayors elected in the most recent municipal elections had not been authorized to take

up their duties. He requested more information on the composition of the foreign population living in Cameroon and on conflicts between French-language and English-language legislation. If possible, he would also like to know the breakdown of the population in terms of religion and what the number of animists was. Did one particular ethnic group predominate in the administration? Were the populations of the north fully integrated into the armed forces and the public sector?

68. Mr. SHERIFIS said he wished to thank the delegation personally for having come specially to participate in the Committee's current meeting. He stressed the importance of the question of the ethnic composition of Cameroon, especially since it was the only country belonging both to the French-speaking group of countries and to the Commonwealth. He also commended Cameroon for having created a national human rights committee, as that decision was in conformity with a recommendation adopted unanimously by the Committee.

69. The CHAIRMAN drew the attention of the delegation to the Committee's guidelines on population statistics, taking account of the fact that some African countries thought it preferable not to collect census data on the ethnic origin of the population. Furthermore, members of the community were aware that, in the multi-ethnic societies of Africa, ethnic questions could lead to political problems, and care should be taken not to consider them in their ethnic dimension alone. He invited the delegation to provide detailed replies in its next report and at the present time to provide any further details it deemed necessary, if it so wished.

70. Mr. YOUMSI (Cameroon) thanked the rapporteur for his pertinent analysis of the situation in Cameroon and thanked the other members of the Committee for their interest. Most of the questions would be answered to in detail in Cameroon's report, but he wished immediately to give additional information on the malfunctioning of justice and on ethnic problems. The difficulties encountered in the area of justice were due first of all to the diversity of the sources of law, as the country had inherited two legal systems, the English-language one (common law) and the French-language one (Roman law). Partial modifications had been made, but they were not always easy to consult. Secondly, due to the country's economic and financial difficulties, the material and human resources budgets for justice were very limited.

71. With regard to the problem of corruption, although it was difficult to get a grip on, it was possible to discern cases of corruption by studying the decisions of justice. As to access to justice, Cameroon had maintained a traditional court in civil affairs, which was very easily accessible. The defendant could present, in his own language, an oral request which could be translated if necessary into one of the two official languages of the country. There was also a modern court, which was readily accessible, but which had to be addressed by written request and therefore required the involvement of lawyers. Contrary to what happened in many European countries, the Cameroonian defendant did not need legal counsel on civil matters, except in cases of appeal to the Supreme Court, as the debate was then on law and not on the facts. The law gave needy persons access to legal aid as long as they had certified that they did not pay taxes. For criminal cases, a lawyer was assigned by the court.

72. Mr. EBAN (Cameroon) said that there had indeed been clashes in the Nord-Ouest province following a boundary dispute between two villages, but order had been restored. There were two types of communes in Cameroon, rural communes and special system communes. The former were headed by a mayor and the latter by the President of the Municipal Council, both elected by the people, but the law called for the latter to be headed by a Government-appointed representative.

73. In connection with the organization of elections, the main problem had been voter registration, an operation conducted by the electoral roll review committee. That joint committee, which included representatives of the administration, of each political party participating in the elections, and of the communes, registered citizens who met the voter eligibility requirements, but not militants of a given political party. The difficulties with registration were explained by the fact that, in some regions, the people were waiting to hear the date of the elections before they registered, but that, prior to the November 1997 vote on a new act which made voter registration possible year-round, registration was possible only between 1 January and 30 April. It was that registration problem, widespread in Cameroon, which was behind the authorities' decision to postpone the legislative elections slightly.

74. Mr. EKOUMOU (Cameroon) said that, contrary to Mr. de Gouttes' assertion, the Bantus were not a minority. Regarding the Rwandan refugees, Cameroon had not extradited Rwandans, as Rwanda had the death penalty. However, Rwandans had been turned over to the International Tribunal for Rwanda. Rwandans suspected of genocide were incarcerated in the Yaoundé central prison. Other Rwandan refugees were fully assimilated into Cameroon, especially if they were Bantus. As to the creation of a national independent commission, such a measure would be unconstitutional, as the Constitution called for the creation of a constitutional council to rule on legislative and presidential elections. Until such a court was established, it was the Supreme Court which performed that function. As to the question of national observers, the Government, with the support of the Canadian Government and several member States of the European Union, was perfectly entitled to train election monitors in preparation for the elections.

75. The CHAIRMAN thanked the delegation warmly for its presence and contribution to the debate and hoped the debate would be helpful in preparing the next report.

76. The delegation of Cameroon withdrew.

The meeting rose at 1.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1202nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of Iceland (CERD/C/299/Add.4)

1. At the invitation of the Chairman, Mr. Geirsson and Mr. Olafsson (Iceland) took seats at the Committee table.

2. Mr. GEIRSSON (Iceland) said that his Government was grateful for the opportunity to report to the Committee on some recent measures taken in Iceland to ensure implementation of the Convention.

3. He first drew attention to a number of amendments to the Constitution adopted in the summer of 1995, which were briefly described in the fourteenth report. They largely reflected the provisions of international human rights instruments to which Iceland was a party, including the Convention. They concerned, in particular, the principle of equality, previously regarded as an unwritten constitutional principle but now enshrined in section 65 of the Constitution. The new provision stated that everyone was equal before the law, without regard to sex, religion, opinion, national origin, race, colour, financial status or parentage.

4. In December 1996, the Althing had adopted a number of changes to the Penal Code aimed at better protection against discrimination on grounds of colour, race, national origin or religion (Act No. 135/1996). Pursuant to the new section 180 of the Penal Code, denying an individual goods or services on the grounds of nationality, colour, race or religion had become punishable by up to six months' imprisonment. The same applied where a person was denied access, for the aforementioned reasons, to any place intended for public use, such as restaurants, hotels, transport or theatres.

5. Section 233 (a) of the Penal Code had been amended at the same time as section 180 had been added. Previously, it had stipulated that any person who, through mockery, slander, insult, threat or other means, publicly attacked a group of persons on the grounds of their nationality, colour, race or religion would be liable to up to two years' imprisonment. Section 233 (a) as amended applied not only to situations in which a group of persons was attacked but also where one person was attacked for similar reasons. The new wording provided better individual protection against discrimination.

6. A number of changes had also been made to Icelandic legislation concerning personal names. In the spring of 1996, a new Personal Names Act had been adopted by the Althing (Act No. 45/1996). The Personal Names Act previously in effect had been the target of criticism, in particular the obligation that naturalized foreigners should assume an Icelandic name, to be used jointly with their original name. Thus, the children of a naturalized foreigner who reached the age of 15 years had been required to use the Icelandic personal name. Under the new legislation, that obligation had been abolished; both naturalized persons and their children could retain their family names.

7. Public interest in the subject of human rights had increased significantly in Iceland in recent years, one manifestation being the amendment to the human rights provisions of the Constitution. The conclusions of the Committee following the discussion of Iceland's thirteenth periodic report had been the subject of considerable debate in Iceland in 1994. Various measures had been taken by the Government to implement the provisions of the Convention, both within the legal profession and in other areas. He drew attention to the general observations in the fourteenth report concerning the publication and distribution of the Convention in Iceland during the past two years. In closing, he pointed out that Iceland was among the States parties which had made the declaration under article 14 of the Convention.

8. Mr. VALENCIA RODRIGUEZ (Country Rapporteur), thanking the representative of Iceland for his presentation, said it should be emphasized that Iceland was an open and democratic society in which the exercise of human rights and fundamental freedoms enjoyed extensive guarantees. Iceland had submitted its report punctually.

9. Beginning with a number of general points, he took note of the constitutional reforms discussed in paragraphs 5-7 of the report, to which the representative of Iceland had referred. A new chapter with high legal standing had been added to the Constitution and strengthened the equality of all persons before the law, regardless of national origin, race or ethnic origin. Other rights set out in paragraph 5 related to those addressed in article 5 of the Convention. It would have been desirable, however, for the Constitution to explicitly prohibit all forms of racial discrimination.

10. Paragraph 8 of the report stated that the European Convention on Human Rights had been incorporated into Icelandic law and that its provisions could be directly invoked in court as domestic legislation. That was an important step forward, which unfortunately had not been taken with regard to other international human rights instruments. He therefore reiterated the recommendation contained in paragraph 407 of the Committee's concluding observations (A/49/18) on Iceland's previous report that Iceland should incorporate the International Convention on the Elimination of All Forms of Racial Discrimination in national law.

11. He was pleased to learn that a bill had been passed abolishing the requirement that naturalized foreigners should take an Icelandic name. He commended the Government for the establishment of a number of governmental bodies of interest to the Committee: the Refugee Council (para. 15); the Information and Cultural Centre for Foreigners (para. 19); the Human Rights Office (para. 25); and the Icelandic Save the Children Organization (para. 28). The Committee looked forward to learning about the results of those initiatives.

12. In connection with article 2 of the Convention, he observed that Iceland had no specific policy to combat racial discrimination. Notwithstanding Iceland's homogeneous population and the small number of foreigners there, the Government would need to develop legislation in the field of racial discrimination, not only because of the presence of foreigners but also because immigration flows were certain to continue in the future.

13. With regard to paragraph 40, he noted that the teaching of Icelandic was encouraged but no steps had been taken to ensure that immigrants and their families could maintain their culture and language. In that context, he was pleased to learn about the Ministry of Education's experiment of teaching a group of Vietnamese children in their mother tongue and hoped that that measure could be extended to other ethnic groups.

14. Turning to article 4, he observed that, according to paragraph 50, relevant Icelandic legislation had not been amended since the thirteenth report. In his view, section 233 (a) and section 125 of the Penal Code were too general to be construed as directly covering the concerns addressed in article 4. Likewise, section 233 (a) did not appear to provide an adequate legal basis for instituting proceedings for the temporary suspension of an association or political party which promoted or encouraged racial hatred (para. 52). He was therefore forced to conclude that Iceland still did not fully comply with the provisions of article 4 (a) and (b). He therefore urged the authorities to adopt further measures in that regard. He welcomed the announcement by the representative of Iceland that an amendment to the Penal Code made it an offence to deny an individual goods or services or access to any place intended for public use on the grounds of nationality, colour, race or religion.

15. On article 5, he sought further information on the implementation of the legislation referred to in paragraph 54 in order to be able to assess whether the rights enumerated in that provision were enjoyed by all. Paragraph 55 acknowledged criticism of the fact that a child did not acquire Icelandic citizenship at birth if its mother was an unmarried foreign national, and paragraph 56 reported that a rule was currently under consideration which expressly provided for the possibility of granting Icelandic nationality to children born stateless in Iceland. He expressed the hope that that draft legislation would be approved, thereby remedying an enormous injustice.

16. With regard to article 6, paragraphs 58-61 stated that the victims of racial discrimination could turn to the courts or the ombudsman, but the legislation cited did not show whether they could seek just and adequate reparation or satisfaction for damage. Legislation would therefore need to be enacted in that respect. He noted that there had been no civil or criminal cases concerning racial discrimination in recent years, but recommended that the authorities should nevertheless remain watchful.

17. Concerning article 7, he commended Iceland for the publicity which it had given to the Convention and for the wide variety of measures it had taken to promote awareness of human rights (paras. 62-69). He was also pleased that the Committee's conclusions on Iceland's previous report had stimulated public debate in Iceland. Had the Committee's work encountered support or, on the contrary, criticism?

18. In closing, he noted with pleasure that Iceland had made the declaration under article 14 of the Convention.

19. Mr. SHERIFIS acknowledged Iceland's effort to comply with the Committee's recommendations, but noted that there was still room for improvement in meeting the requirements of the Convention, and particularly article 4.

20. Concerning paragraph 23, he was pleased to learn that the Committee's concluding observations on the previous report had provided an opportunity for public debate and had been commented upon in all the most influential Icelandic media. It was also encouraging that, for the first time, the Convention had been included in the Law Collection, which contained the Constitution and other fundamental statutes (para. 21 of the report). The growing interest in human rights in Iceland over the past few years was an important development (para. 24).

21. He noted that two organizations had been established to deal specifically with human rights: the Human Rights Office (para. 25) and the University Institution of Human Rights (para. 27). According to paragraph 29, there was no formal cooperation between them and the Government; he wondered, however, whether they had worked together with the Government in drafting the report to the Committee and what government body was responsible for coordinating that effort.

22. Iceland, to its credit, had been one of the first States to make the declaration under article 14. According to paragraph 61, in recent years no civil or criminal cases had been brought before the courts concerning racial discrimination, and the Ombudsman of the Althing had not received any complaint from individuals claiming that they had been discriminated against by the authorities on grounds of race, colour or national or ethnic origin. He would like to know whether citizens of Iceland were aware of the existence of the possibility of lodging individual complaints on the basis of article 14 of the Convention.

23. Turning to paragraph 68, he welcomed the many projects for combating discrimination in which Iceland participated. In closing, he asked the Government of Iceland to consider ratifying the General Assembly's amendment to article 8, paragraph 6, of the Convention.

24. Mr. de GOUTTES commended Iceland's adoption of a number of legislative measures aimed at fulfilling its obligations under the Convention, and particularly the amendment to the human rights provisions of the Constitution and additions to the Penal Code. The declaration made under article 14 and the wide dissemination of international human rights instruments were further positive steps.

25. Paragraph 8 gave rise to concern as it indicated that, apart from the European Convention on Human Rights, no other international instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, had been incorporated into domestic law and, furthermore, no decision had been taken to do so. He asked the delegation if it could provide information on the prospects for incorporating the Convention into domestic law.

26. It was also regrettable that there was no formal cooperation between the Government and the Icelandic Human Rights Office, the University Institution of Human Rights and the Save the Children Organization, beyond the dissemination of information.

27. With reference to the issue of nationality for children born out of wedlock to a non-Icelandic mother, he asked whether the Government had considered amending or repealing the legal provisions which prevented such children from acquiring Icelandic nationality.

28. Mr. DIACONU drew attention to the considerable amount of legislation enacted by Iceland; it was in many respects more comprehensive than that of the other Nordic countries. Iceland had adequate legislation to combat racial discrimination if it were to arise. He wished to remind the Government of Iceland that the recommendations made in the Committee's concluding observations relating to article 4 should be strictly complied with.

29. Iceland had been innovative in creating the office of the Ombudsman for Children, and he wondered whether consideration would be given to extending that initiative to designate ombudsmen to deal with all human rights matters, including racial discrimination. He encouraged the Government to resolve the issue of possible statelessness of children born to unwed foreign mothers and referred to the international instruments on statelessness as sources where solutions could be sought.

30. Mr. FERRERO COSTA said he wished to underscore the lack of direct applicability of the Convention to Icelandic legislation. As stated in paragraph 8 of the report and paragraphs 54 and 55 of the core document (HRI/CORE/1/Add.26), Iceland's dualistic position regarding provisions of human rights conventions had been discussed on the previous occasion when Iceland had appeared before the Committee, but the matter continued to be of concern. He asked why an exception was made in the case of the European Convention on Human Rights and not in the case of other conventions. He was also interested in knowing about specific rulings of the Supreme Court which had given added weight to international instruments and to what extent human rights and racial discrimination had been considered.

31. While there had been legislative amendments to provisions relating to article 4, the requirements of paragraph (b) of that article had not been fulfilled. He inquired about political parties in Iceland and whether there could be parties which promoted ideologies of racial superiority. How was the prohibition of such parties enforced?

32. He asked the delegation to furnish additional information on the status of the Personal Names Bill and the bill on denial of access to public places on racial or similar grounds, which were due to be considered by the Althing in 1996.

33. Mr. GARVALOV, referring to paragraph 5 (a) of the report, pointed out that the amendment to the Constitution did not reflect the wording "descent, or national or ethnic origin" contained in article 1, paragraph 1, of the Convention.

34. He endorsed his colleagues' comments on the incorporation of the provisions of the Convention into domestic law and expressed the hope that Iceland would see fit to take the necessary steps to legislate in that regard.

35. While he accepted that issues relating to racial discrimination had not gained much attention in public debate, since Icelandic society was relatively homogeneous, article 2, paragraphs 1 (a) and 2, sought to protect individuals as well as groups; States parties should not wait for large numbers of segregated minorities to emerge before instituting legal provisions to ensure protection against racial discrimination.

36. His attention had been drawn to the reference to "political groups and trade unions" in a citation from the Constitution in paragraph 51, and stressed that article 4 of the Convention did not specifically mention that it was political groups and trade unions that should be banned. He asked, hypothetically, whether an organization would be banned only after it had expounded racist ideas and ideologies or committed racial acts and violence, or before it had done any of those things.

37. He had the uneasy feeling that paragraph 62 of the report related only indirectly to article 7 of the Convention and emphasized that teaching and education should be extended to include law enforcement officials, judges and teachers, among others.

38. Mr. van BOVEN noted with satisfaction Iceland's declaration under article 14, but regretted that only paragraph 409 of the Committee's previous suggestions and recommendations had been implemented since 1994. The remaining three recommendations, namely paragraphs 407, 408 and 410, had not been addressed. While States parties were under no obligation to follow up the concluding observations, it would nevertheless be useful for the Committee to know the reasons for non-compliance. He greatly welcomed the attention the Government had paid to measures to afford protection against racial discrimination, but hoped that Iceland's next report would reflect follow-up on the concluding observations.

39. Looking at the population breakdown in the tables in paragraph 33 of the report, he noted that on average about 50 per cent of those born outside Iceland had acquired Icelandic citizenship. Although he saw no evidence of any discriminatory patterns in granting citizenship, there were some interesting discrepancies between the high proportion of, say, Germans and the below-average proportion of persons of Asian origin who had acquired citizenship. He asked whether the delegation had any explanation for those discrepancies and whether Iceland recognized dual citizenship, which might affect the figures. Among the 10,901 persons born in other countries, how many had been granted refugee status?

40. Mr. WOLFRUM considered the report of Iceland to be one of the best the Committee had ever seen. Iceland's record in prohibiting racial discrimination was difficult to match. The adoption of a bill abolishing the obligation for a foreigner to assume an Icelandic name, in response to a recommendation by the Committee, was a welcome development. He trusted that details of the proposed new provision to be added to the Penal Code, referred to in paragraph 14, would be given in Iceland's next periodic report.

Regarding the question of the incorporation of the Convention into domestic law, an explanation was needed, but he would not criticize Iceland for adopting a dualistic approach as long as the content of an international agreement was implemented. Either an international treaty was considered part of domestic law or, as appeared to be the approach adopted in the Scandinavian countries, all parts of domestic legislation were amended to bring them into conformity with international treaties ratified. Both systems had their merits, the advantage in the latter system being that judges tended to refer to, and implement, national rather than international law.

41. Like Mr. van Boven, he would appreciate an explanation of the discrepancies in the tables in paragraph 33 concerning the acquisition of citizenship. Were they perhaps due to the earlier or more recent immigration of certain groups? With reference to paragraph 45, the fact that pupils from Viet Nam were singled out as beneficiaries of an experiment in mother-tongue instruction concurrently with teaching in Icelandic was no doubt due to the particular difficulty of the Icelandic language for persons from Asia. Similar projects, involving a new approach to teaching foreign languages, were being carried out in Germany and he would welcome more information. Although he agreed with Mr. Garvalov that the statement in paragraph 51 was not fully in conformity with article 4 (b) of the Convention, it might well be, judging from a reading of that paragraph in conjunction with paragraph 52, that the effect would be the same if section 72, subsection 1 of the Constitution, together with section 233 (a) of the Penal Code, were interpreted as meaning that associations committing unlawful acts must be disbanded. Was that interpretation correct? Finally, he was most impressed by the measures reported under article 7 which, though perhaps not strictly in accordance with that article, met the same objective. Iceland was one of the very few States which complied with that provision.

42. Mr. GEIRSSON (Iceland), responding to members' comments and questions, referred them to his introductory statement in which he had indicated the efforts being made to improve the provisions of section 233 (a) of the Penal Code concerning racist attacks. Members had rightly pointed to flaws in the Nationality Act. The Ministry of Justice was currently working on amendments to improve the Act. Although the Human Rights Office and the University Institution of Human Rights were not directly involved in drafting Iceland's report to the Committee, which was prepared by the Ministry of Justice, the Government maintained excellent cooperative relations with those two bodies. The former body received financial assistance from the Government, and the Chairman of the latter had in fact been the Government's representative before the Committee some years previously. He admitted with regret that people in Iceland were not well acquainted with the recourse procedure for individual complaints under article 14 of the Convention, but hoped that that situation would change with the Government's vigorous efforts to make the Convention more widely known.

43. With regard to the incorporation of the Convention into domestic law, Iceland adhered to the dualistic legal doctrine to the effect that international treaties did not assume the force of domestic law even if ratified, but were only binding according to international law. However, it was a principle of legal construction that domestic law should be interpreted in conformity with international law. Like other Scandinavian countries,

Iceland changed its national legislation when it was not in conformity with the international treaties it ratified. Why Iceland had incorporated the European Convention on Human Rights into domestic law but not the International Convention on the Elimination of All Forms of Racial Discrimination was a good question, to which he had no immediate reply, but Iceland's position was the same as that of the other Nordic countries, with the exception of Norway, which had incorporated two international conventions into its domestic law.

44. It had been asked why there was only an Ombudsman for Children. There was in fact another ombudsman, the Ombudsman of the Althing, who dealt with other human rights issues; the current incumbent was a long-standing member of the European Commission of Human Rights. In reply to questions about the procedure for prohibiting associations with unlawful aims, he was glad to say that such associations were very rare in Iceland, and indeed none had thus far come to the authorities' attention. Mr. Wolfrum had been right to say, however, that although Iceland's approach was different, the effect was the same, since the Constitution provided that associations could be formed without prior authorization, but if they pursued unlawful aims they could be disbanded - obviously by a court decision.

45. With regard to the discrepancies noted in the tables in paragraph 33 concerning the acquisition of Icelandic citizenship, Mr. Wolfrum had been right to assume that they had much to do with when the various groups had arrived. There were rules on length of stay and other criteria for acquiring citizenship. For example, the high proportion of Germans who had been naturalized was due to the arrival of large numbers of Germans in Iceland just after the Second World War, Poles had come more recently to work in the shipyards, and the persons born in Indonesia were mostly children who had been adopted. Further explanations would be given in the next report.

46. Mr. Geirsson and Mr. Olafsson (Iceland) withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

Draft general recommendation concerning indigenous peoples (CERD/C/50/Misc.7).

47. Mr. WOLFRUM recalled that the initial version of the draft general recommendation now before the Committee (CERD/C/50/Misc.7) had been introduced at the previous session but had been discussed only briefly. Mr. Diaconu had submitted the following amendments: the figure "I" should be inserted between the final preambular paragraph and the first operative paragraph; in the first sentence of the first operative paragraph, the words "in their territories" should be inserted between the words "indigenous population" and "to acknowledge"; the figure "II" should be inserted after the final operative paragraph and be followed by a new paragraph reading:

> "Requests States parties with indigenous peoples in their territories to fully present in their periodic reports to the Committee the situation of such peoples from the point of view of all the provisions of the Convention."

48. He suggested that the text, as amended, should be circulated at the current session and that the Committee agree to consider it at its fifty-first session.

49. Mr. SHERIFIS said he wished to make a clarification for the record. While the Committee was aware that its recommendations were not binding on States parties, it hoped that they would take account of them and act accordingly. Once a recommendation was adopted by the Committee, however, it should at least be binding on all Committee members. An occasion had arisen on which, after he had asked the representative of a State party whether it had complied with one of the Committee's general recommendations, another member had intervened to tell the representative that, since the recommendation was not binding, it did not mean much and need not be taken into account. Such contradictory statements before a State representative presented a poor image of the Committee and only led to confusion. Points of the Committee's procedure or interpretation that were not specifically relevant to one State party should be discussed among members at a closed meeting. If such public discussion was likely to arise again, he would be reluctant to question a State party on its compliance with a recommendation. He would appreciate the Committee's views on that issue.

50. The CHAIRMAN, speaking in his personal capacity, said that Mr. Sherifis was correct in saying that members were under an obligation to view a recommendation in the terms he had suggested. He would not wish to specify the nature of that obligation, but Mr. Sherifis had intimated that it was a moral, collegial obligation to be seen in the perspective of the image which the Committee presented to States parties. He asked whether any members of the Committee objected to his adopting, as Chairman, the view he had just expressed as an individual member.

51. Mr. DIACONU considered that the matter should be discussed in the presence of all 18 members of the Committee. He was not sure whether the Chairman was competent to issue a ruling on such a question and formal action could only be taken if there was a text before the Committee that could be duly discussed.

52. Mr. GARVALOV agreed with the interpretation proposed by the Chairman. He would also have a comment to make on the text of the draft General Recommendation.

53. Mr. FERRERO COSTA suggested that consideration of the question raised by Mr. Sherifis should be deferred.

54. The CHAIRMAN invited members to submit any further comments on the text to Mr. Wolfrum. He took it that the Committee agreed with Mr. Ferrero Costa's suggestion and with Mr. Wolfrum's proposal to consider the amended draft General Recommendation at the fifty-first session.

55. It was so decided.

Proposal for amendment of rules of procedure (CERD/C/50/Misc.2) (continued)

56. Mr. CHIGOVERA said that the draft proposal, which he had amended following consultation with other members of the Committee, would read:

"(a) In order to maintain the highest standards of impartiality, members should, as a general rule, refrain from participating in the consideration of the reports of States of which they are nationals.

"(b) Members may, however, feel free, if he or she so wishes, to provide advice to the members of the Committee with a view to improving the information on the factual and legal situation of the State concerned or other relevant aspects."

57. The amendment to the rules of procedure was vital to the image and integrity of the Committee. The draft proposal was consistent with the terms of article 8, paragraph 1, of the Convention, which referred to the impartiality of members, and would help prevent any potential pressure being brought to bear by the authorities of a reporting State on a national who was a member of the Committee.

58. Mr. WOLFRUM fully endorsed the amended draft proposal. In his opinion, the text should be inserted as new rule 68 (a) of the rules of procedure.

59. Mr. FERRERO COSTA, supported by Mr. YUTZIS, said that he had endorsed the original text of the draft proposal. As amended, it was not in keeping with the traditional practice of the Committee and was likely to create the very situation members were trying to avoid. The text should state that members could provide advice if they were invited to do so.

60. Mr. de GOUTTES agreed with Mr. Ferrero Costa, but the Committee should not be too hasty in adopting such an amendment to its rules of procedure; it must be clear how other committees intended to react to the relevant recommendation in the report of the 7th meeting of persons chairing human rights treaty bodies (A/51/482).

61. Mr. DIACONU said he was concerned about how the adoption of such an amendment would affect the working methods of the Committee in the event that a member who did not agree with it refused to comply with its provisions.

62. It was not clear to whom it would fall to invite a member to provide advice, if the amendment was adopted. As it stood, the text placed responsibility on members themselves to decide whether or not to take the floor during the consideration of the report of the country of which they were nationals, thus safeguarding members' freedom of speech, which was as it should be. If the text was adopted, it should be inserted after rule 40.

63. Mr. van BOVEN said that his wishes had been taken into account in the drafting of the text. However, the scope of paragraph (b) should be limited: "only" should be inserted before "with a view to improving the information" and the paragraph should end after "State concerned".

64. Mrs. SADIQ ALI said the text should stipulate that members would be invited by the Chairman of the Committee.

65. Mr. AHMADU considered that the comments made in the draft proposal were directed at him. He had only once sought to provide additional information during consideration of his country's periodic report, at a time when concluding observations had been discussed in closed meetings, at which members of the Committee should not be denied the right to provide additional information. That was particularly true when, as an expert, usually with a wealth of knowledge of the situation in his or her country, the member might know more about a particular question than the persons presenting the report. In no way had he been trying to prevent criticism of his country. As long as he was a member of the Committee he would refrain from intervening during the consideration of his country's reports. The traditional practice whereby a member of the Committee who was a national of a reporting State remained outside the discussion of the report should continue but should not be formalized in a written provision. The text implied that members might not be impartial, which was not fair.

66. Mr. GARVALOV said that he would prefer any reference to the participation or non-participation of a member in the discussion of his or her country's report to take the form of a General Recommendation rather than an amendment to the rules of procedure. It was not clear what exactly would constitute participation in the debate. The first paragraph should be revised to make it clear that members were generally expected to refrain from participating, a wording which would convey the idea that a member retained the right to do so if he or she so wished.

67. Mr. VALENCIA RODRIGUEZ said that the implications the draft proposal would have on the competence of members of the Committee under the Convention should not be overlooked. It was not clear whether, if an invitation to participate was included in the text, who or how many members of the Committee would invite their colleague to take part in the proceedings. It was equally unclear whether the draft proposal related only to consideration of a State party report or extended to consideration of communications under article 14 of the Convention. The Committee should therefore consider the matter in greater depth.

68. Mr. CHIGOVERA said it was not true that the draft proposal was targeted at any particular member of the Committee. The Committee drew up rules of procedure to help it ensure implementation of the Convention. The draft proposal was therefore consistent with the terms of the Convention and the work of the Committee. It was also of great importance in terms of highlighting the integrity of the Committee, particularly in the eyes of States parties which did not have nationals on the Committee. He would continue to try and find a compromise which met with the assent of all members of the Committee.

69. The CHAIRMAN said that the Committee would continue consideration of the question at a later date.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1203rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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GE.97-15911 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eleventh and twelfth periodic reports of Iraq (CERD/C/240/Add.3)

1. At the invitation of the Chairman, the members of the delegation of Iraq took seats at the Committee table.

2. Mr. al-AZAWI (Iraq), introducing the eleventh and twelfth periodic reports of Iraq, contained in a single document (CERD/C/240/Add.3), said that the delay in submitting the report was attributable to the abnormal situation in northern Iraq. Written law had existed in Iraq for over 3,000 years and minorities had always coexisted peacefully. The foreword to the report said that the question of democracy and human rights had played an important role in the thinking of Iraq's leaders since the 1968 revolution, and that the question of minorities, which had been neglected prior to the revolution, was treated as a priority. Efforts to combat racial discrimination were now based on firm constitutional and legal foundations, making it possible to ensure respect for the legitimate rights of minorities within the framework of national unity. A number of acts and decrees had been adopted to that end, including Act No. 33 extending autonomy to the region of Iraqi Kurdistan as from 11 March 1974, the Act establishing the Executive Council of the Autonomous Region of Iraqi Kurdistan, Revolution Command Council Decree No. 89 of 24 November 1970, protecting the cultural rights of the Turkomans, and Decree No. 251 of 1973 recognizing the cultural rights of Syriac-speaking citizens (report, paras. 3, 9, 6 and 7).

3. The report, which comprised eight chapters and an annex, reviewed all the measures adopted in Iraq since 1968, and in particular since the submission of the tenth report. Iraq had done its utmost to comply with the Committee's guidelines on the preparation of reports. The first chapter described the political structure of authority, i.e. the legislative, executive and judicial authorities. Chapter II briefly reviewed the various laws to combat racial discrimination and safeguard the rights of minorities. Chapter III described the measures taken by the Government to resolve the Kurdish question and grant autonomy to Kurdistan. In that regard, he referred in particular to articles 1, 2, 5 and 6 of the Autonomy Act (para. 29), whose purpose was to guarantee the cultural, social and political rights of the Kurds. The 1990 military intervention had very seriously undermined those rights.

4. Chapter IV of the report, on the cultural rights of the Turkomans and Syriac-speakers, described a number of measures that were intended to guarantee those rights and were still in effect. Chapter V described the measures taken by Iraq to discharge the international commitments it had made when it had acceded to the various instruments to combat racism and prohibit and punish racial discrimination at the national level. There were several provisions which punished any person guilty of acts contrary to the Convention.

5. Chapter VI enumerated the constitutional and legal provisions designed to protect the civil, political, economic and social rights of all citizens, including minorities. Chapter VII related to the legislative measures taken to protect individuals from any act of discrimination, including, in particular, the right to institute proceedings before the courts and to obtain compensation for discrimination. Lastly, chapter VIII described measures taken to combat racial discrimination in the fields of education, information and culture.

6. The annex to the report described the abnormal situation prevailing in northern Iraq on account of the foreign military intervention there, which was both a blatant violation of Iraq's sovereignty and integrity and a threat to regional security. The armed interventions by certain neighbouring States and the clashes between the various Kurdish factions had led to serious violations of the civilian population's rights. The Government had done its utmost to provide the population with food and medicines (which were seriously lacking in Iraq) and to ensure essential services. It had also endeavoured to continue the dialogue with the warring Kurdish parties and had invited them to find solutions in order to bring the situation in the autonomous region back to normal and to enable the population to exercise their legitimate rights within the framework of national unity. He pointed out that minorities other than the Kurds lived in northern Iraq.

7. The paramount issue, which it was impossible to ignore, was that of the serious violations still affecting the whole of the Iraqi people on account of the total economic embargo imposed on Iraq. The embargo was absolute because, even though Security Council resolution 986 (1995) had excluded food and medicines, the exemption had never been observed in practice because of the ban on exports of Iraqi oil and the freezing of Iraqi assets abroad. The consequences for the population were dramatic, as the Secretary-General of the United Nations had emphasized in 1995 in his report to the General Assembly. The Regional Director of WHO for the Middle East had stated at a press conference in April 1996 that the economic sanctions had driven Iraq back 50 years. Reference should also be made to the recommendations of several international conferences held under the aegis of the United Nations, and decision 1991/108, requesting all States and all international organizations to take urgent measures to prevent the death of thousands of persons, in particular children, which had been unanimously adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-third session.

8. Both UNICEF (E/ICEF/1994/PL.2) and WHO (WHO/EHA/96.4) had described the catastrophic consequences of the health situation for children, more than 600,000 of whom had died in Iraq between 1990 and August 1995.

9. Basic infrastructure had been destroyed and there was a shortage of school supplies. He invited the members of the Committee to assess the actual situation of Iraq's population and children on the spot. A slow genocide, more dramatic than a swift genocide, was clearly under way. The agreement on the supply of food and basic medicines in exchange for oil was not yet being fully implemented because of deliberate impediments. However, all contracts for the sale of oil had been honoured. Payment for the shipments had been deposited in the banks specified in memorandum of understanding, but the

Sanctions Committee had only authorized payment of 9 out of 292 contracts. In his report to the Security Council (S/1997/206), the Secretary-General had said that he did not expect the food supplies to reach Iraq before April. The Iraqi people were despairing of ever receiving them. He commended the Committee's unfailing efforts in support of human rights throughout the world, and urged it to consider the situation of the Iraqi people in the light of the information he had provided. The embargo was having dire consequences for the fundamental rights of the whole of the Iraqi people, including the minorities.

10. Mr. WOLFRUM (Country Rapporteur) commended Iraq's efforts to meet its reporting obligations, in spite of its special and difficult situation. He listed the various sources of information he had used in preparing his report: a WHO report of March 1996 on the situation in Iraq; the report prepared by the Secretary-General in conformity with paragraph 11 of Security Council resolution 986 (1995) (S/1997/206); WHO press release No. 23 of 27 February 1997; the 1996 report of the Special Rapporteur of the Commission on Human Rights on the situation in Iraq (E/CN.4/1996/61); a report on the Kurds by Minority Rights Group International; the report of the Special Rapporteur of the Commission on Human Rights on the question of torture (E/CN.4/1996/35/Add.1); the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36); various recommendations by the General Assembly and the Security Council; documents issued by several NGOs; and an interview with the Hamburg Orient Institute.

11. He appreciated that the embargo on Iraq was having serious consequences for its population, and had taken that fact into account in considering Iraq's report. Nevertheless, it should be noted that Iraq's economic situation had begun to deteriorate well before the Gulf war, notably on account of the fall in oil earnings. Many elements of the public and private infrastructure had been destroyed during the Gulf war, to the detriment, inter alia, of the population's health. It had been necessary to suspend vaccination programmes and there had been a considerable increase in the incidence of many diseases. Rationing had been instituted in 1990 and the population's protein and vitamin requirements were not being met. Food prices were extremely high for most families. Since 1993, the situation had worsened for most of the population, especially children, the number of whom admitted to hospital had increased 50 times since 1990. Infant mortality among children under five had increased sixfold.

12. He suggested to the delegation that in future it should take into account the Committee's guidelines on the preparation of reports, in order to make them easier to understand.

13. Paragraph 22 of the report (CERD/C/240/Add.3) stated that under the Constitution Iraq was a sovereign democratic republic. However, in his report on the situation of human rights in Iraq (E/CN.4/1996/61), the Special Rapporteur of the Commission on Human Rights emphasized that power was essentially vested in the President of the Republic, who was also the head of the Revolution Command Council. He would appreciate further information on the political power structure, and in particular on the provisions of Leading Party Act No. 142 of 1974.

14. Iraq's population was mainly composed of Arabs (75 to 80 per cent), Kurds (15 to 20 per cent), Turkomans, Assyrians and Chaldeans. Most of the population were either Shiite or Sunnite Muslims. There were also some Christians and a small number of Jews. Referring to chapter II of the report, describing legislative measures to safeguard the rights of minorities, he pointed out that the Convention referred not to minorities but to linguistic or ethnic groups. According to the Special Rapporteur on the situation of human rights in Iraq, the Assyrians, the Kurds and the Ma'dan were treated differently from the rest of the population. He asked whether Revolution Command Council Decree No. 89, of 24 November 1970, stipulating that the Turkoman language would be taught in primary schools, was implemented in practice. In that connection, the Committee was primarily interested in the application of legal instruments; it was not sufficient to cite them. He would also appreciate clarification of the information, provided by the Special Rapporteur on the human rights situation in Iraq, that the Government was endeavouring to Arabize some regions and allegedly obliging their inhabitants to leave their villages.

15. Referring to paragraphs 7, 8 and 32 of the report, he would welcome additional information on the implementation of Revolution Command Council Decree No. 251 of 1973, which recognized the cultural rights of Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church). According to the Special Rapporteur on the human rights situation in Iraq, many Assyrian families living in Baghdad were discriminated against. In addition, according to various sources, the Turkomans, Assyrians and other groups were being compelled to leave their villages. And the Government was allegedly still forcing the Kurds and Turkomans living in Mosul and Kirkuk to leave their places of residence. Mr. Frank, of the Hamburg Orient Institute, considered that the displacements could be explained by the discovery of oil in the region. Regarding the Kurds, he referred to paragraph 27 (c) and (d) of the report and asked whether the 1974 Acts granting autonomy to Iraqi Kurdistan and establishing the Iraqi Kurdistan Regional Legislative Council were implemented in practice.

16. As stated in paragraph 2 of the annex to the report, Iraq took the position that the purpose of the recognition of the rights of minorities should be application of the principle of non-discrimination among citizens, and not the granting of privileges to any particular group. Articles 1 and 2 of the Convention authorized States to adopt, if circumstances so required, special measures to ensure the development or protection of certain groups. It was mentioned in paragraph 3 of the annex that Iraq had opposed all attempts to promote confusion between the right of peoples to self-determination and the rights of minorities, particularly since some domineering States had attempted to exploit the issue of minorities in order to compel some developing countries to adopt the political system best suited to their own political interests, by threatening to divide their peoples and fragment their national unity. He emphasized that the Committee did not recognize the right to secession, but would appreciate clarification of the situation of the Kurds in northern Iraq. It was further stated in paragraph 6 of the annex that the Government of Iraq had been forced to withdraw its administration from the region because the United States of America and certain other Western States had interpreted Security Council resolution 688 (1991) in a selective and distorted manner in order to engage

in military intervention on the pretext of protecting the population and providing humanitarian assistance. He asked what the consequences of the intervention had been for the Kurdish people.

17. He wished to know what the Iraqi delegation thought about the effects on the civilian population (Kurdish, Turkoman, etc.) of the intervention by the Iraqi armed forces, as described by the Special Rapporteur of the Commission on Human Rights. He also asked the delegation to account for reports that the property rights of the inhabitants of the autonomous regions were being restricted. He requested oral or written clarification of the internal embargo allegedly imposed on the population of the three governorate in northern Iraq, i.e. essentially the Kurds, the Assyrians, the Turkomans and other ethnic minorities. According to a UNICEF report dated April 1995, 50 per cent of the rural population in central and southern Iraq had no access to drinking water, while the figure for the governorate of Dhi Qar was 90 per cent. He asked whether the disparity was a result of the embargo. Was it true that towns in central Iraq, in particular Tikrit, Samarra and certain parts of Baghdad, enjoyed preferential treatment?

18. According to the United Nations High Commissioner for Refugees, there were still hundreds of thousands of Iraqi refugees abroad, mainly in Iran, Saudi Arabia, Kuwait, Syria, Turkey, Pakistan and Jordan. He asked whether that was correct and whether the Government had taken measures to encourage them to return. Regarding the referendum mentioned in paragraph 17 of the report (CERD/C/240/Add.3), he asked whether the Government had made efforts to ensure the participation of the Kurdish population. He also requested fuller information on the population living in the southern marsh region who, according to the Special Rapporteur, had been subjected to acts of discrimination and harassment in recent years.

19. Regarding the distribution of food and medicines, which should have taken place in conformity with Security Council resolution 986 (1995), it was apparent from the report submitted by the Secretary-General to the Security Council on 10 March 1997 (S/1997/206) that the delay was mainly attributable to United Nations bureaucratic procedures. In any event, he expressed doubt as to the fairness and non-discriminatory character of the current distribution of food and medicines by the authorities. The existing system, which required beneficiaries to be in possession of an identity card, seemed to be working to the disadvantage of the population living in the southern marsh region, who generally had no identity cards. According to the Special Rapporteur, the authorities had refused to issue ration cards to people belonging to certain tribes in the governorate of Basra. Some groups and individuals were allegedly favoured, in particular high-ranking military officers and officials of the party in power.

20. He asked for clarification of the new draft Iraqi Penal Code (CERD/C/240/Add.3, para. 14). The provisions cited in paragraph 36 of the report were not fully in conformity with those of article 4 of the Convention. The Committee should take note of the special economic and social circumstances which Iraq faced because of external factors. Nevertheless, the

information on the implementation of the Convention provided by the Iraqi delegation was insufficient, and much clarification was called for in the light of the data provided by the Special Rapporteur of the Commission on Human Rights.

21. The CHAIRMAN recommended that the members of the Committee should focus their questions on the implementation of the Convention. He invited the Iraqi delegation to reply orally to the most urgent questions, while bearing in mind that more detailed written replies and observations could be included in Iraq's thirteenth and fourteenth periodic reports.

22. Mr. ABOUL-NASR observed that none of the highly critical reports on the situation in Iraq published by WHO, UNICEF and various NGOs took account of the difficulties the country was facing because of the unjust sanctions which had been imposed on the Iraqi people. Regarding the report recently submitted by the Secretary-General of the United Nations to the Security Council (S/1997/206), he asked the Iraqi delegation why the memorandum of understanding concluded subsequent to the adoption of Security Council resolution 986 (1995) had still not been implemented. In his view, what was most disturbing was that the Secretary-General had said neither when, nor to what extent, the memorandum would be implemented, even though Iraqi civilians, and in particular children, were suffering and dying every day. He agreed with the representative of Iraq that slow genocide was under way.

23. He accordingly proposed that, in its concluding observations, the Committee should say that it was committed to respect for Iraq's sovereignty, disturbed at Iraq's inability to implement the Convention in those parts of its territory beyond its sovereignty and concerned at the deterioration in the humanitarian situation. Lastly, the Committee should call for the immediate implementation of the provisions of the memorandum of understanding.

24. Mr. VALENCIA RODRIGUEZ said that because of political and military factors attributable to the Gulf war, the population of Kurdistan, and also the Iraqi population as a whole, were being deprived of their essential rights under the Iraqi Constitution and other legislative instruments. He asked whether the ethnic groups comprising the Turkomans and Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church) enjoyed other rights than those mentioned in paragraphs 6 and 7 of the report and whether any other measures had been adopted by the Government to ensure respect for, and the advancement of, their language and culture. He also asked whether those groups could establish cultural organizations, whether, pursuant to article 2 of the Convention, there was any overall policy to combat discrimination and if so, what its fundamental features were.

25. He requested clarification of the regime of autonomy enjoyed by the Kurdistan region (CERD/C/240/Add.3, para. 29). What were the main features of its autonomy? What did it consist of? What were the main organs and functions of the autonomous regional government? Were funds provided solely from the general State budget? Was the President of the Executive Council responsible for other administrative departments?

26. He asked whether the international human rights instruments, and in particular the Convention, to which Iraq had acceded (CERD/C/240/Add.3, para. 33) formed an integral part of domestic legislation and whether it was possible directly to invoke their provisions before the courts. Regarding the implementation of article 4 of the Convention (CERD/C/240/Add.3, para. 36), he inquired whether racist political parties were also prohibited and whether there had been any instances in which the provisions of the article had been implemented. To conclude, he welcomed the fact that criminal proceedings instituted for racial discrimination or racist propaganda could not be halted, suspended or dropped except in the circumstances specified by law (CERD/C/240/Add.3, paras. 65 and 66 (b)).

27. Mr. YUTZIS commended the quality of both the written and oral reports presented by the Iraqi delegation and the explanations provided, which had given him a better understanding of the trying social and humanitarian situation facing the country. He was, however, confused about the meaning, in the Spanish version, of part of paragraph 7 of the report concerning the teaching of Syriac. He asked whether the right to teach Syriac actually existed and was exercised in practice. Nor was it clear from paragraph 30 whether Turkoman writers already effectively enjoyed the right to establish their own association. And paragraph 32 suggested that the right of Syriac-speaking citizens to form cultural and artistic clubs had been granted, rather than recognized, which was what should have been done.

28. According to paragraph 50 of the report, article 25 of the Constitution restricted freedom of religion, belief and worship in the interests of morality and public order. While recognizing that that restriction was no doubt legitimate, he asked whether any code explicitly specified which acts were contrary to the constitutional provisions relating to morality and public order.

29. Mr. van BOVEN said that the sanctions imposed on Iraq under Chapter VII of the Charter represented a heavy and unjust penalty on the Iraqi population and should be reviewed so as to limit their effects on the most vulnerable groups, particularly women and children. As the sanctions were causing hundreds of thousands of victims among Iraqi children, it would be useful for the Committee to determine whether children belonging to specific ethnic groups were particularly effected by the shortage of food and medicines.

30. Since there was often a close link between racial discrimination and the overall economic situation, it would also be useful for the Committee to obtain further information on the status of the autonomous region of Iraqi Kurdistan, and in particular on the provisions relating to the exploitation of natural resources.

31. Referring to the principle of State responsibility, he asked which neighbouring States were responsible for the violations of the rights of the Kurdish people, referred to in paragraph 8 of the annex describing the situation in northern Iraq. He also asked whether Iraq was considering recourse to the procedure provided for under articles 11 to 14 of the Convention in respect of the parties concerned.

32. Lastly, he strongly urged Iraq to ratify the amendment to article 8 (c) of the Convention concerning the funding of the Committee's activities.

33. Mr. CHIGOVERA said, with reference to paragraph 2 of the report, that he would appreciate further information on the level at which the Kurdish people and other minorities were represented in Iraq's central Government. He noted that, according to paragraph 33 of the report, the provisions of the Convention had become an integral part of domestic legislation, and asked the delegation to explain how it was possible in practice to invoke the Convention in order to combat racial discrimination. He asked whether its provisions had been incorporated into national legislation or whether specific legislation had been enacted to implement them.

34. There were still doubts as to how article 4 was implemented in Iraq and, in view of the distinction made in paragraph 47 of the report between religious communities and ethnic minorities, he asked for details of the ethnic composition of the Iraqi population. The Committee would appreciate further information on the religious communities.

35. Mr. de GOUTTES said that, like Mr. Wolfrum, he wished to emphasize that Iraq's population were the helpless victims of an international embargo that had resulted in a catastrophic situation which could only be solved by political means. He endorsed Mr. Aboul-Nasr's proposal that the immediate implementation of the "oil for food" agreement should be recommended, on the understanding that all Iraqis should benefit from it equally and without any kind of privilege.

36. He noted from paragraph 27 of Iraq's report that article 17 of the Constitution, establishing the general principle of non-discrimination, was not substantiated by the provisions of the Penal Code. Current legislation, and articles 200 et seq. in particular, did not seem to satisfy all the requirements of article 4 of the Convention. He accordingly urged Iraq to remedy the situation.

37. Regarding article 6 of the Convention, he hoped that the information provided in paragraphs 65 et seq. of the report would be supplemented in the next report by actual examples of complaints concerning acts of racial discrimination. In view of the multi-ethnic composition of the population, it would be surprising if there had been no such cases. He asked whether the heavier penalties referred to in paragraph 14 of the report also applied to racist offences.

38. Mr. SHAHI associated himself with Mr. de Gouttes' request for Iraq to fully and effectively incorporate article 4 into its legislation. He endorsed the concern expressed by Mr. Aboul-Nasr about the prohibition of medical and humanitarian supplies to Iraq despite the memorandum of understanding signed with the United Nations; there was absolutely no reason to maintain the sanctions since Iraq had accepted Security Council resolutions 706 and 712.

39. He hoped that the Committee would include in its concluding observations concerning the structural difficulties hindering the implementation of the Convention, a request for all parties concerned to authorize the delivery to Iraq of essential humanitarian supplies in order to relieve the suffering of the Iraqi people.

40. Mr. AHMADU said that he was gratified by the quality of the information which the Iraqi delegation had provided to the Committee concerning the obstacles impeding the implementation of all the provisions of the Convention, which the State party was understandably unable to implement in large areas of its territory not under its control. He associated himself with the hopes expressed by the other members of the Committee for rapid removal of the obstacles to the speedy delivery of humanitarian supplies to Iraq, whose population urgently needed them.

41. He inquired whether the term "referendum" used in the report referred to elections. If it did not, that would mean that the Government of Iraq was failing to implement article 5 (c) of the Convention.

42. The provisions of Iraqi legislation on the acquisition of Iraqi citizenship were very favourable. He asked in what circumstances the Ministry of the Interior could withdraw Iraqi citizenship.

43. Mr. LECHUGA HEVIA thanked the Iraqi delegation for the information it had provided to the Committee and, like the other members of the Committee, stressed the inhuman situation unjustly imposed on the Iraqi population. External circumstances were largely responsible for preventing Iraq from implementing all the provisions of the Convention. He supported the proposal to call on the parties concerned to ensure the delivery to Iraq of the medical and food supplies so urgently needed by its population.

44. The CHAIRMAN said that the Committee would continue consideration of the eleventh and twelfth periodic reports of Iraq at its next meeting.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1204th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-15921 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Thirteenth periodic report of the Republic of Iraq (CERD/C/240/Add.3) (continued)

1. At the invitation of the Chairman, the members of the delegation of Iraq resumed their seats at the Committee table.

2. Mr. AL-AZAWI (Iraq), expressing appreciation for the understanding shown for the situation of the Iraqi people, said that he would attempt to answer the questions put to his delegation and would provide written replies where necessary.

3. With regard to the concentration of powers in the hands of the President of the Republic, he said that the Iraqi Constitution provided for the legislative, judicial and executive powers. The President, in accordance with the Constitution, was the President of the Revolutionary Command Council, which enacted laws proposed by the Assembly of Deputies. The 1990 draft Constitution contained essential amendments and additions with regard to the distribution of powers that were far more detailed than before.

4. As to the question on the rights of the Turkomans, he said that the laws to which reference had been made were being applied; Iraq's report gave further information on that matter. Turkomans had their own national language, which was taught in schools, but for obvious reasons it was not possible, at university level, to teach every subject in all the different national languages. The Turkomans could open clubs and associations, form trade unions and publish works in their own language.

5. In the Autonomous Region of Iraqi Kurdistan Kurdish was the official language in schools, the administration and the courts, as well as in some university departments. Kurdish was taught up to secondary level. Kurdish-language newspapers were widely published, including in Baghdad. The Syriac-speaking and other minorities enjoyed similar cultural rights.

6. It had been alleged that Iraq was seeking to arabize Mosul, a ridiculous assertion, given that the majority of the inhabitants were Arabs who had lived in the area for more than 1,500 years. He also rejected the claim that the central Government was bringing pressure to bear on minorities that cooperated with the Kurds.

7. It had been stated that the central Government had withdrawn from the northern region. In fact, Iraq had been prevented by military force from exercising its sovereign rights and providing services to its citizens in that region. Had government officials remained, they might well have lost their lives.

8. The assertion had also been made that Kurdish and Turkoman residents had been forced out of certain regions because oil had been discovered. Actually, oil had been extracted from those regions since the 1940s. The governorates

of Dohuk, Arbil and Sulaimaniya in the northern self-administered Kurdish region did not have oil in commercially exploitable quantities. Oil was found in the Kirkuk area, i.e. outside the Autonomous Region of Iraqi Kurdistan and an area where the Kurds were a minority.

9. Concerning the inhabitants of the southern marsh area, he pointed out that those persons were of Arab origin and were not ethnic or religious minorities. Nothing distinguished them from other Arabs living in the area.

10. To the question on amnesty he replied that a number of amnesty decrees had been published in the Official Gazette; he could make them available to the members of the Committee upon request.

11. Concerning the question of ration cards, he said that their use was well known and gave rise to no discrimination whatsoever. Every family had a ration card which covered basic commodities. It was difficult to see how that could lead to any form of discrimination.

12. It was a fact that 90 per cent of the rural areas had no drinking water, most of the hydroelectric power stations and water purification plants having been destroyed. Anyone who had been to Baghdad knew that water and electricity were cut off from time to time, a state of affairs that was worsening.

13. Clarifying a comment on the Third River, he said that at issue was an irrigation project for which plans had existed since the 1950s as part of an agricultural development programme to create new arable land.

14. In response to the request for information on the reasons for delays in the distribution of food, he pointed out that under the Memorandum of Understanding between the United Nations and Iraq, the proceeds from the sale of part of Iraq's oil were to be placed in international banks, in exchange for which humanitarian supplies would be purchased and sent to Iraq. His Government had kept its side of the agreement, but was being hindered by enormous obstacles. He would like to know why the United Nations had not implemented the agreement. That had led to an exacerbation of the tragic plight of the Iraqi population, and in particular women and children.

15. On another question concerning the Kurds, he said that under the Constitution the Vice-President of Iraq must be a member of that minority. Many ministers and diplomats were also Kurds. It was difficult for him to say exactly who was a Kurd and who was not, because it was most uncommon to make such a distinction in Iraqi society. What counted for his Government was not ethnic origin, but professional competence. In the Autonomous Region of Kurdistan, local elections were held to form the legislative and executive councils, and as Iraqi citizens Kurds enjoyed the right to be elected to the National Assembly.

16. With regard to the incorporation into domestic legislation of international human rights instruments, he said that once such instruments were ratified, they were published in the Official Gazette, after which they became an integral part of Iraqi legislation. The Administration must then ensure that they were implemented.

17. On the question whether political parties could be set up, he said that that right was guaranteed under the 1991 Political Parties Act but, given the current economic embargo and the situation in northern Iraq, it was not possible to adopt more democratic measures. Those who wanted Iraq to continue along that path should work towards improving the current climate.

18. In connection with the implementation of article 4 of the Convention, he said that incitement to commit acts of ethnic, racial, religious or other forms of discrimination was punishable under the Penal Code, but there had been no recent cases. His delegation would inquire whether any judgements had been reached by the courts in those areas and would pass on any information it received to the Committee.

19. In response to a question on the history of legislation to guarantee the rights of minorities, he said that the first such laws could be traced back to the 1940s, but new legislation was also under consideration, and it was hoped that the rights of minorities could be increased still further in the future.

20. It had been asked whether children who were members of minorities suffered more than other children. To be perfectly frank, all children in Iraq suffered deprivation equally and with the same intensity.

21. In reply to a question concerning inter-ethnic marriage, he said that Iraqi law attached no conditions to such unions; any conditions were solely those imposed by the religious communities themselves. Islamic law allowed Muslims, Christians and Jews to intermarry. Spouses could retain their original religion. A member of one minority who married a member of another could not be forced to adopt the religion of his or her spouse. Intermarriage between Arabs and Kurds was commonplace; indeed, he was unaccustomed even to considering questions of that nature.

22. He reiterated that the Convention was part and parcel of domestic legislation, which included provisions of the Penal Code concerning punishment for persons committing or aiding and abetting acts of racial discrimination; the latter encompassed assistance, incitement or participation in such an act. He was willing to provide details of judgements, although he could assure the Committee that such judgements were rare, because historically the Iraqi people were not accustomed to thinking in those terms. The Constitution was quite clear on that subject; he could provide samples of all relevant constitutional and legislative provisions.

23. He referred to the Iraqi National Act, which provided that Iraqi nationality could be revoked, by a decision of the Minister of the Interior, in only one case, namely, if an Iraqi citizen acquired another nationality. If for any reason he lost that new nationality, his original Iraqi nationality could be restored. In closing, he emphasized the country's need for the Convention to be fully implemented in view of Iraq's current situation, especially with regard to medicines and foodstuffs.

24. Mr. VALENCIA RODRIGUEZ sought confirmation that, since article 4 (b) of the Convention made no provision for specific penalties, the only way for a

plaintiff to secure direct implementation of article 4 would be to invoke before a court not only the provisions of the Convention but also article 200 of the Penal Code.

25. Mr. de GOUTTES asked if the Iraqi representative could be more explicit in describing the reasons for the difficulties in implementing the Memorandum of Understanding. In particular, he would appreciate a reply to the suggestion that there might be some discrimination - in the form of privileges, for instance, for government officials - hampering the equitable distribution of humanitarian supplies.

26. Mr. ABOUL-NASR said that although the reasons for the delays in implementation had never been spelled out officially, press reports, which he could show Mr. de Gouttes, gave them wide coverage. The Committee should perhaps refrain from discussing that matter further in order to avoid politicizing the debate. The allegations about inequitable distribution of medicines were unfounded and were an excuse for destabilizing the situation, keeping the problem alive and maintaining control over parts of Iraq, particularly the north but also the south, and in doing so depriving the Government of its sovereignty.

27. Mr. DIACONU, quoting a WHO Press Release (WHO/16), said that the problems in the implementation of the Memorandum of Understanding had now been solved, since that role had been entrusted to WHO. On the subject of the implementation of article 4 of the Convention, a more detailed analysis by the Government was needed. He endorsed Mr. Shahi's comment that the Penal Code apparently did not fully reflect the provisions of article 4, in which case it would need to be amended.

28. Mr. Al-AZAWI (Iraq) said he appreciated the concern behind the question asked by Mr. Valencia Rodriguez about article 4. Since international conventions ratified by Iraq became part of domestic legislation, a national judge could apply their provisions and refer to them in his interpretation, although it was true that in most cases judges were inclined to base their judgements on available domestic legislation in preference to international law and conventions, except in cases where a domestic law specifically referred back to an international convention. The articles of the Penal Code, however, were very clear in providing that not only the perpetrators of a discriminatory act but also any accomplices or instigators, (e.g. the press), were punishable. The provisions of international conventions or treaties were often invoked by decisions in civil suits, such as those concerning disputes between Iraqi and non-Iraqi companies. He assured the Committee that the Iraqi judicial authorities encouraged judges to apply the legal rules set forth in international conventions, and held seminars to that effect. The Committee's advice would help Iraq in developing its legislation.

29. With regard to the difficulties in implementing the Memorandum of Understanding concerning the sale of oil in return for food and medicines, Iraq had carried out its side of the agreement - understandably so, since the Government and the people, especially the poor, were impatiently awaiting the supply of food and medicines.

30. Mr. SALMAN (Iraq) offered to show members of the Committee the ration card covering basic food items. The distribution of rations was supervised by WHO, which had testified that the ration card system ensured equality among all Iraqis. With regard to the sale of oil in return for humanitarian supplies, his Government failed to understand why the sales contracts submitted to the United Nations Sanctions Committee were being blocked. Of 290 contracts submitted, only 9 had been accepted, and none of them concerned medicines. The Secretary-General himself had spoken of bureaucratic delays and urged the speeding-up of procedures, but it appeared that some quarters had an interest in delaying the arrival of humanitarian assistance. The population was suffering from the absence of such essentials as drinking water, medicines and electricity.

31. Mr. ABOUL-NASR, drawing attention to the principles of law nullum crimen sine lege and nulla poena sine lege, said that in order to be able to assess the full implementation of article 4 (a) of the Convention, the Committee needed to study the relevant provisions of domestic legislation. It was not sufficient to state that the provisions of the Convention applied because the Convention formed part of domestic law. He hoped that the relevant texts would be provided.

32. Mr. Al-AZAWI (Iraq) assured the Committee that its comments would be conveyed to the Iraqi authorities for further study and that a just solution would be found.

33. Mr. WOLFRUM (County Rapporteur) said that the dialogue with the delegation was most instructive, even if there were some differences in perception. The substantial amount of information provided orally might usefully have been given in writing, and he hoped that that would be the case when Iraq next reported to the Committee. That applied, for example, to the information on the Kurdish population. The oral statements had provided further, welcome insights into prevailing attitudes in Iraq, which were as important to the Committee as the bare facts. The reporting system afforded a useful opportunity for a State party to gather inputs from various sources and to reflect upon its position. He would therefore suggest that, in preparing the next report, the authorities should reconsider the situation that existed in Iraq and convey their positions to the Committee, whether or nor their views differed.

34. While he appreciated the measures adopted to provide primary education in the Turkoman language, further explanations were needed on steps taken to preserve the cultural and linguistic identity of the Turkomans.

35. He was aware of the Iraqi Government's position concerning the populations of the southern marsh area of the country, as reiterated by the delegation, and had therefore deliberately refrained from referring to them as a minority. He drew attention, however, to the Committee's General Recommendation VIII to the effect that self-identification was the criterion for determining membership of a racial or ethnic group. Since identification with a given group was a subjective feeling, whether it be of a minority or a majority population, and often resulted in discrimination, he would ask the Iraqi Government to consider the position of those populations, which regarded

36. Returning to the question of the internal embargo in northern Iraq, he requested the Iraqi authorities to consider the possibly discriminatory effect of Revolution Command Council Decree No. 529 of 24 August 1989 and the report of the Special Rapporteur of the Commission on Human Rights on the internal embargo. He hoped that more detailed explanations would be provided in the next periodic report.

37. It would facilitate the Committee's understanding of Iraq's complex political structure if the information provided by the Iraqi Government was divided into a core document and a specific report intended for the Committee. The Centre for Human Rights could provide technical assistance in drafting the reports. It would also make for an easier and better informed dialogue if the Iraqi authorities studied the various documents and reports on the human rights situation in Iraq to which he had referred and conveyed their response to the allegations they contained. The State party was also requested to consider the Committee's concluding observations, which were often the starting-point for members' questions and comments when the next periodic report was discussed. Finally, he observed that the format recommended by the Committee in its guidelines for reporting had been followed more closely in Iraq's previous report.

38. The CHAIRMAN thanked the Iraqi delegation for its cooperation and looked forward to further dialogue in the future.

39. The delegation of Iraq withdrew.

Draft concluding observations concerning the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/50/Misc.1)

40. After a lengthy discussion on procedure for the adoption of concluding observations in which the CHAIRMAN, Mr. YUTZIS, Mr. FERRERO COSTA, Mr. ABOUL-NASR, Mr. GARVALOV, Mr. de GOUTTES and Mr. RECHETOV took part, the CHAIRMAN suggested that the meeting should be suspended.

The meeting was suspended at 5 p.m. and resumed at 5.10 p.m.

41. Mr. RECHETOV (Country Rapporteur for the United Kingdom) said that the document before the Committee (CERD/C/50/Misc.1) was an excellent summary prepared by the secretariat in which he had incorporated comments and proposals made by members of the Committee.

42. The CHAIRMAN invited members to consider the draft concluding observations concerning the United Kingdom.

Paragraph 3

43. Mr. RECHETOV (Country Rapporteur) said it had been agreed that the phrase "for some of its members," should be inserted in the second line between "and" and "requested".

Paragraph 4

44. The CHAIRMAN said that, in view of the points raised by Mr. CHIGOVERA, Mr. RECHETOV, Mr. WOLFRUM, and Mr. VALENCIA RODRIGUEZ, paragraph 4 would be redrafted and discussed at a later date.

45. It was so decided.

Paragraph 8

46. Mr. GARVALOV said that the phrase "taken into account" was too weak.

47. Mr. AHMADU suggested that "noted" would be more acceptable.

Paragraph 11

48. Mr. ABOUL-NASR suggested that the words "after 140 years" should be inserted before "equal status".

Paragraphs 13 and 14

49. Mr. YUTZIS said that since the Committee had decided to defer any decision on paragraph 4, it should do the same with regard to paragraphs 13 and 14.

Paragraph 18

50. Mr. CHIGOVERA considered that there was not enough hard evidence that implementation of the Asylum and Immigration Act 1996 was detrimental to the protection of asylum-seekers to justify its inclusion in the concluding observations.

51. Mr. FERRERO COSTA said that the reference had been made because there was some concern about discrimination against persons from certain countries in the application of the Act.

52. Mr. van BOVEN was of the view that the reference was justified, not least for reasons of consistency, as the Act had been mentioned in the Committee's concluding observations concerning the United Kingdom at the previous session (A/51/18).

53. Mr. DIACONU suggested that the words "against any racial discrimination" should be added at the end of the first sentence.

Paragraph 19

54. Mr. SHAHI said that "inexistence" should be replaced by "non-existence".

Paragraph 21

55. Mr. CHIGOVERA said that he was concerned that domestic workers of Filipino origin were mentioned specifically since the "two-week rule" was

56. Mr. WOLFRUM observed that Filipino workers were particularly disadvantaged by that rule.

Paragraph 22

57. Mr. RECHETOV (Country Rapporteur) suggested that the Committee should defer its decision on paragraph 22.

Paragraph 23

58. Mr. GARVALOV said that the grammatical structure of the first sentence was misleading; "as noted in its General Recommendation VII (32)" would be clearer.

Paragraph 24

59. The CHAIRMAN said that the words "the incorporation of" should be deleted.

60. Mr. AHMADU suggested that "useful for" should replace "essential to".

Paragraph 25

61. Mr. RECHETOV (Country Rapporteur), responding to concerns raised by some members of the Committee, said that he agreed to the deletion of the paragraph.

Paragraph 26

62. Mr. GARVALOV said that the reference to "all groups of the population" should be replaced by "all ethnic groups".

63. Mr. RECHETOV (Country Rapporteur) announced that Mr. de Gouttes had requested the inclusion of a new paragraph, after paragraph 26, asking for information on complaints of racial discrimination that had been received and their outcome.

64. The CHAIRMAN said that he would draft the paragraph and submit it to the Committee for approval.

65. The Committee would continue its consideration of the concluding observations concerning the report of the United Kingdom at a later date.

The meeting rose at 6.05 p.m.